

INDIANA DEPARTMENT OF TRANSPORTATION  
OFFICE OF REAL ESTATE  
BUYER'S MANUAL



2006

# TABLE OF CONTENTS

## INTRODUCTION

- Overview of the process
- Powers of the department

## CHAPTER ONE / PLAN REVIEW

## CHAPTER TWO / TITLE

### Ownerships

- 2(1)..... Tenants in common, tenants by the entirety, joint tenants
- 2(2)..... Life estates
- 2(3)..... Contract buyers
- 2(4)..... Estates
- 2(5)..... Guardianships
- 2(6)..... Trusts
- 2(7)..... Power of Attorney
- 2(8)..... Mineral interests
- 2(9)..... Classified use properties
- 2(10)..... Federal Land Transfers
- 2(11)..... Reacquire existing right of way (RER)
- 2(12)..... Bankruptcy
- 2(13)..... Local government properties
- 2(14)..... Corporations
- 2(15)..... Partnerships, limited partnerships, limited liability companies
- 2(16)..... Companies
- 2(17)..... Railroads
- 2(18)..... Unknown ownerships
- 2(19)..... Associations, condominiums
- 2(20)..... Cemetery Purchases

### Interests of Less than Fee

- 2(21)..... Easements, prescriptive easements, way of necessity
- 2(22)..... Leases
- 2(23)..... Farm tenants

## Liens

- 2(24)..... Mortgages, waivers
- 2(25)..... Real estate taxes, interim period, vouchering delinquent taxes, waivers
- 2(26)..... Personal property taxes- mobile homes
- 2(27)..... Mechanics liens
- 2(28)..... Judgements
- 2(29)..... Uniform Commercial Code fixture filings
- 2(30)..... Federal & State tax liens

## Enclosures

- #2-1 Notice of Land Acquisition Name Change
- #2-2 Affidavit of Heirship
- #2-3 Affidavit of Surviving Spouse
- #2-4 Affidavit of Death
- #2-5 Trustees Authority Affidavit
- #2-6 Lessee's Affidavit of Non-compliance
- #2-7 Mineral Interest Affidavit of Non-compliance
- #2-8 Classified use property memo to DNR
- #2-9 Executive Authority Affidavit
- #2-10 Corporate Authority Affidavit, one person corporation
- #2-10A Corporate Authority Affidavit
- #2-11 Partnership Authority Affidavit
- #2-12 LLC Managers Authority Affidavit
- #2-13 President's Authority Affidavit
- #2-14 Sole Proprietorship Affidavit
- #2-15 Adverse Possession Affidavit
- #2-16 Affidavit of Church Trustees Resolution
- #2-17 Affidavit of Association Resolution
- #2-18 Partial mortgage release
- #2-19 Letter to out of state mortgagee
- #2-20 IC 32-8-15-1, authority to sign a mortgage release
- #2-21 Waiver of partial mortgage release
- #2-22 Tax Commissioners letter to county auditors
- #2-23 Waiver of real estate taxes

## **CHAPTER THREE / UNDERSTANDING THE APPRAISAL**

### Definitions

- 3(1)..... Review Sheet
- 3(2)..... Statement of Basis of Just Compensation
- 3(3)..... Errors and omissions
- 3(4)..... Parcels without appraisals
- 3(5)..... Signs

## **CHAPTER FOUR / PREPARATION**

- 4(1)..... Priorities
- 4(2)..... Offer Letter
- 4(3)..... Buyer's report
- 4(4)..... How Land is Purchased brochure
- 4(5)..... Land plat
- 4(6)..... Owner's Private Appraisal letter
- 4(7)..... Statement of Basis of Just Compensation
- 4(8)..... Plans
- 4(9)..... Publication of Offer
- 4(10)..... Offers by mail
- 4(11)..... Daily Relocation Notice

### **Enclosures**

- #4-1 Parcel fact sheet
- #4-2 Uniform Offer Letter
- #4-3 Buyer's report
- #4-4 How Land is Purchased for Highways brochure
- #4-5 Land Plat
- #4-6 Owner's Private Appraisal letter
- #4-7 Statement of Basis for Just Compensation
- #4-8 Notice of published offer
- #4-9 Affidavit, Unable to present offer
- #4-10 Affidavit, Unable to locate owner
- #4-11 Offer by mail, sample introduction letter
- #4-12 Daily Relocation Notice

## **CHAPTER FIVE / THE PRESENTATION**

- 5(1)..... Display the plans
- 5(2)..... Affidavits
- 5(3)..... Environmental Disclosure Document
- 5(4)..... Offer presentation
- 5(5)..... Retentions, major, slight encroachments, minor
- 5(6)..... Buyer's report
- 5(7)..... Summation

### **Enclosures**

- #5-1 Relocation letter RAAP6
- #5-2 Relocation letter RAAP24



## **CHAPTER SIX / THE NEGOTIATING PROCESS**

- 6(1)..... Negotiating
  - Common courtesy
  - Confidence
  - Control
  - Listen
  - Discuss- never argue
  - Don't oversell
  - Know when to leave
  - Deal from Fact
  - Clarify/ Simplify
  - Follow up
  - Good business practices
- 6(2)..... Plan changes
- 6(3)..... Owner's Private Appraisal

### **Enclosures**

- #6-1 Design change memo
- #6-2 Rec/Route sheet

## **CHAPTER SEVEN / ENVIRONMENTAL REVIEW OF PARCELS**

### **Enclosures**

- #7-1 Environmental Disclosure Document
- #7-2 Memo recommending to secure environmental property
- #7-3 Memo recommending to condemn environmental property
- #7-4 Lead Based Paint Disclosure Form

## **CHAPTER EIGHT / SECURING**

- 8(1)..... Document preparation
- 8(2)..... Conveyance instruments, warranty deed, quitclaim deed
  - Power of Attorney clause
  - Retention clause
  - Interim tax clause
- 8(3)..... Acceptance of offer
- 8(4)..... Claim voucher
  - Formats
  - Preparation
  - Multiple payees
  - Attachment

- 8(7)..... Real estate tax memo
- 8(8)..... Affidavits
- 8(9)..... Right of Entry
- 8(10)..... Authorization to enter on private property
- 8(11)..... Donations
- 8(12)..... Retention agreement, major  
Calculating damages
- 8(13)..... Retention of fixtures, minor
- 8(14)..... Notice of items to be treated as personal property
- 8(15)..... Conveyance agreement, access rights
- 8(16)..... Mortgage release
- 8(17)..... Purchase of mobile homes

#### Enclosures

- #8-1 Warranty deed
- #8-2 Quitclaim deed
- #8-3 Temporary Easement grant
- #8-4 Acceptance of offer
- #8-5 Claim voucher, single payee
- #8-6 Claim voucher, single payee- multiple claimants
- #8-7 Claim voucher, multiple, unrelated payees
- #8-7A Claim voucher attachment
- #8-8 Claim voucher, supplemental voucher
- #8-9 US Postal regulations for addresses
- #8-10 W-9
- #8-11 Receipt of Conveyance Instrument
- #8-12 Real Estate Tax memo
- #8-13 Real Estate Tax memo, interim period
- #8-14 Right of Entry
- #8-15 Authorization to Enter on Private Property
- #8-16 Donation Agreement, with offer
- #8-17 Donation Agreement, without offer
- #8-18 Retention Agreement, major items
- #8-19 Retention of Fixtures, minor items
- #8-20 Notice of Items to be Treated as Personal Property
- #8-21 Conveyance Agreement, Access Rights Only
- #8-22 Certificate of Gross Retail Tax Paid, mobile homes
- #8-23 Deed examples, tenants by the entirety, tenants in common  
corporations, trust with contract buyer, limited partnership  
with corporation general partner, estate, power of attorney,  
government agency
- #8-24 Affidavit, He/She the same
- #8-25 Affidavit, I am the same
- #8-26 Affidavit of Judgement Debtors

## **CHAPTER NINE / CONDEMNATION**

- 9(1)..... Administrative settlement
- 9(2)..... Condemnation report
- 9(3)..... Condemnation process

### **Enclosures**

- #9-1 Administrative settlement memo
- #9-2 Condemnation report
- #9-3 Ten day letter

## **CHAPTER TEN / RELOCATION**

## **CHAPTER ELEVEN / ASSEMBLY**

- 11(1)..... Payment procedures
- 11(2)..... Special processing of checks
- 11(3)..... Waivers and memos

### **Enclosures**

- #11-1 Parcel order assembly list
- #11-2 Status Report
- #11-3 Parcel evaluation sheet
- #11-4 Special payment memo

## **CHAPTER TWELVE / MISCELLANEOUS**

- 12(1)..... Authorities granted under Indiana Code
- INDOT standard specifications
- General policies

## **INDEX**

## INTRODUCTION

The right of way buyer is the principal contact between the Indiana Department of Transportation (INDOT) Land Acquisition Division and the property owner. The initial impression made by him/her is important to the successful acquisition of land, which is the ultimate goal of this division. Abstracting, engineering, and appraising are preparatory functions of acquiring land. While each of these functions is an important component to the acquisition, each serves to prepare the buyer to meet the goal of this division; **the timely acquisition of land from a knowledgeable owner who has been treated fairly.** A condemnation suit is an undesirable, time-consuming and expensive means to our goal.

The buyer's responsibilities include:

1. Thorough review of the plans;
2. Review and update of the title information;
3. Review and understanding of the appraisal;
4. Preparation of offer materials;
5. Personal presentation of the offer to the ownership interests with an explanation of the project, plans, and acquisition procedures;
6. Addressing all owners concerns and determining whether plan changes or appraisal reviews are justified;
7. A Due Diligence investigation of environmental concerns;
8. Preparation of all instruments/documents and obtaining all necessary signatures to provide clear title;
9. Assembly of the parcel for submission;
10. Submitting the completed parcel within the target date;

The buyer must possess a valid Indiana real estate broker's license and be commissioned a Notary Public for the State of Indiana.

A buyer must be versed in multiple disciplines in order to review and verify correct all the preceding land acquisition preparations. The abstract/title report is prepared for engineering use one to three years prior to an offer being made. The buyer must have a working knowledge of title law and be able to update a title report. This requires the buyer to be familiar with the county land records system and the functions of the various county offices. The buyer must also know how to read right of way plans in order to be able to adequately explain the project and the purpose of the acquisition to the owner. He will also possess a basic knowledge of the appraisal process, damage theory and real estate law. Once the buyer is competent in these disciplines, he must be able to effectively communicate his knowledge to an owner under difficult circumstances.

The following chapters will review each of these responsibilities in greater detail. This manual will explain the required procedures and use of the forms; however, a basic knowledge of real estate law, title, appraisal methodology and plan reading skills are required of the buyer and are not practicable to be covered in this format. This manual is intended to act as both a training manual to be used in conjunction with an intensive training program and as a technical reference guide for the working buyer. It is NOT to be considered an encyclopedia to buying that will provide all the necessary skills simply by reading it. The format is arranged to address issues in the same order in which they occur when working a parcel. If you have an interest in a particular subject you should reference the index to locate the chapter(s) which discuss that subject.

### **Conflict of Interest**

Accountability to the public is focused upon by many people outside the department. The buyer must be constantly alert to the smallest perception that his or her activities could be questioned by the general public. Accountability starts with the individual buyer and how the buyer performs his or her job. When dealing with the public, honest and appropriate business practices are very important. Although the department is not operating for a profit, it is responsible for a very large amount of money. Any time there is money involved, there is the possibility of fraud, waste, abuse, or mismanagement of those funds. The right-of-way buyer must be constantly aware of the penalties of conflict of interest laws and procedures. The policy of the department follows the laws of the State and the regulations of the Federal Highway Administration. Indiana Code (IC) 35-44-1-3 states "A public servant who knowingly or intentionally (1) has pecuniary interest in; or (2) derives profit from; a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony."

Federal Highway Administration Regulations, 23 CFR Sec. 1.33 states "No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or government instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for an in behalf of the State. It shall be the responsibility of the State to enforce the requirements of this section."

### **An Overview of the Process**

INDOT acquires properties under the authority granted in Indiana Code (IC) 8-23-2-6 which provides for the department to "Acquire by purchase, gift, or condemnation. . .". IC 8-23-18-1 also extends INDOT's eminent domain authority to acquire other governmental entities' properties. IC 8-23-7-2 authorizes INDOT to acquire properties for more specific purposes relating to highway construction. IC 8-23-8-3 authorizes INDOT to acquire land and rights for limited access highways. IC 8-23-20-20 provides for the acquisition of junkyards which can not be adequately screened from highways.

**IC 8-23-2-6. Powers of department**

- (a) The department, through the commissioner or the commissioner's designee, may do the following:
- (1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.
  - (6) Perform all functions pertaining to the acquisition of property for transportation purposes, including the compromise of any claims for compensation.

The basic steps involved in an eminent domain acquisition include:

1. An appraisal and review of the area to be acquired.
2. A written offer with description of the area to be acquired.
3. The buyer attempts to resolve any valid problems or concerns the owner may have.
4. The owner accepts or rejects the offer within a 25-day period.
5. If accepted, the buyer prepares the necessary instruments, obtains the signatures, clears all liens and submits the parcel for review and approval.
6. Payment is made within 90 days of obtaining clear title; the deed is subsequently recorded and INDOT takes possession.
7. If rejected, the parcel is forwarded to the Office of the Attorney General who files suit in the county of the project. The court will hear objections and issue an order of appropriation which authorizes INDOT to acquire the property through eminent domain. The court appoints appraisers who will return a report of value. INDOT posts the court appraisers award with the county clerk and has rights of possession. The owner or INDOT can file an exception to the court's appraisal and proceed to a jury trial which will establish the final value of the acquisition. The owner must return the amount withdrawn which is in excess of the jury's award (if any).

IC 32-24-1-5 states that a suit can not be filed before 30 days after the offer is made. INDOT will pay up to \$2500 of the owners attorney's fees if the final award exceeds INDOT's final offer. INDOT pays the court costs which include court appraisal fees.

## CHAPTER ONE

### PLAN REVIEW

Upon receipt of a project, the buyer should review the plans to determine the nature of the project, its effects on the subject properties and the need for the taking. The buyer's ability to interpret the plans, explain the necessity of the taking, and answer the owner's questions will establish the tone of the relationship you will have with the owner. If you can not give a clear explanation of the plans and answer his questions, the owner will not have confidence in any of your further explanations of appraisal methodology, acquisition procedures or INDOT policies.

You should begin plan review by noting the type of project (bridge or road) on the cover sheet. Then familiarize yourself with the format of the parcel index sheet. This sheet will direct you to the appropriate pages for a particular parcel and save considerable time in searching through a 50-sheet set of plans.

The typical cross-section sheet will show you what type of road, surface and ditches will be constructed. Review this sheet noting edge-to-edge pavement width, number of lanes and their widths, shoulder width, type and size of side ditch and its side slopes. This sheet may denote the design variations of the road within different sections of the project by station lengths or show county roads (S lines) and Local Service Roads (LSR's). The typical cross-section sheet may also show erosion control methods for side ditches and fish pool/sediment traps.

The plat 1 sheet will orient you to the general area of the project and show property lines.

The plan and profile sheet will provide you the location of the new and existing improvements and elevations, property lines and drainage grades. **Any change or new improvement, which will affect the owner's use and enjoyment of his property, must be noted in your Buyer's Report in order for him/her to make an informed decision on this sale. These would include new shoulders, guard rails, side ditches/side slopes, elevations, drive locations-surfaces-widths, drainage patterns, Access Control Lines, fences, and rip-rapped areas.** When you have familiarized yourself with the plan and profile, you should then color or highlight the areas of takings in order to assist the owner in recognizing these areas. Use a different color for permanent takings than you will use for temporary or perpetual easements.

Interstate road plans may contain detail, interchange geometrics and drainage sheets.

Some plans may contain aerial photographs which are useful in determining drainage patterns. The plans will also contain a structure and approach table which delineates the type, location, and size of improvements to be constructed.

Refer to the attached Plan Reading Checklist for assistance in preparing to review and explain the plans to property owners.

## **Plan Reading Checklist**

There are certain items that a Buyer must look for when reading plans and explaining them to owners.

- 1) *Property Lines*: existing and proposed; temporary r/w, mortgage lines, Limited Access lines.
- 2) *Driving lanes/turn lanes/shoulders/curbs/sidewalks*: Buyers must explain driving lane widths; shoulders; turn lanes; edge of pavement; Typical and Actual Cross sections will aid in determining these.
- 3) *Center Medians/Raised Island Turn Medians*: These may not actually be in the area of take, but can certainly affect a property owner's decision.
- 4) *Drives*: location(station number), width, type, length, grade.....these can be found on plan/profile, detail sheet, approach tables.
- 5) *Guardrails*: found on the plan/profile in the profile section. It will show the beginning and end of the guardrails.
- 6) *Pipes*: almost always under drive entrances in the location of existing ditches, and will also be under drives in proposed locations. Will be found on the plan/profile, detail sheet, and structure tables. Other types of pipes will be found under the driving lanes where ditches/small creeks flow under the roadway. Buyer will identify size, length, direction of flow.
- 7) *Ditches*: found on the plan/profile sheet in the profile section. Also, it is easy to show an owner where a ditch will be located by locating the pipes under drives; ditches will generally be located between the pipes. Owners will want to know the location (how much closer to their house?), the slope of the ditches ("will it be easy to mow?"), how large, direction of flow, rip-rap?
- 8) *Monuments*: these will include trees, existing R/W markers, mailboxes, telephone poles, signs, water meters, fences & posts, etc. These are good to use when showing the plans to owners, and walking the property to show existing and proposed R/W lines, edge of pavement, proposed ditches, etc. Buyer can verbally say for example, "new edge of pavement will be X-feet from this telephone pole". Owner will be able to get a better view of where new improvements will be built and also have more confidence in Buyer if the Buyer is able to actually walk the property and point to where certain improvements will be located.



## CHAPTER TWO

### TITLE

Every parcel must include a title report or abstract. It is the buyer's primary responsibility to know the character of the title to be acquired. Failure to properly review the abstract can lead to the acquisition of flawed title.

The buyer should begin with a review of the title history to verify that he agrees with the abstractor's opinion of ownership. If acquired through multiple deeds, does the owner hold 100 percent of fee title under the same name and nature of title? INDOT's policies require no less than a 20 year title search on commercial parcels with fee simple acquisitions or parcels with environmental problems. Minor fee simple acquisitions on rural or residential properties must have no less than a five year title search. Temporary easement only acquisitions will contain no less than the last deed of record.

**Review the caption deed to verify that the owner's name and nature of title is as the report cites it.** Verify that the owners' names are spelled the same in the deed as the report cites them. Typographical errors do occur. **Also note any subjections or reservations on the owner's caption deed.** These subjections may not appear in the report summary because they were not recorded separately. For example, if the owner assumed a mortgage, the deed subsection will likely be the only notice of this lien if no other instruments are recorded separately. Mineral interests may have been conveyed over 20 years prior and will only show up as a reservation in the later deeds. It is, therefore, very important for you to recognize these title flaws which are not noted by the report.

You should then note all other interests in the subject parcel which must be released. These will most commonly include life estates, contract buyers, mortgagees, lessees, easement holders, and mineral interests.

The buyer will update the title report by verifying with the county auditor's transfer record that the property has not been sold in part or whole. If the transfer record indicates a new ownership you will then check the recorder's deed and mortgage records and obtain copies to bring the title up to date. If the new ownership is only a selloff of the original tract you will plat the description of the selloff to identify whether it is within the area to be acquired. A "Notice of Land Acquisition Name Change" (*see enclosure #1*) will be completed and submitted to the Buying Section clerk, with a copy placed in the parcel. This provides INDOT's data base with the accurate ownership information which can be referenced in the future.

The following is a list of the types of ownership, interests of less than fee and liens which may be encountered and the standard methods used to clear them. The buying process frequently encounters unique circumstances which must be dealt with by means other than standard practices. If you encounter such a situation you should review it with the buying manager to determine the best way to resolve the issue.

### OWNERSHIPS

**All ownership interests will be made party to the offer and sign an acceptance of offer, warranty deed, claim voucher and any necessary supporting documents such as affidavits to convey clear title.** The offer will cite the owner exactly as he took title, unless the caption deed contained an error such as a misspelling or an incorrect recitation such as "tenants in common with rights of survivorship".

## 2 (1)

### **Tenants in common, Tenants by the entirety, Joint tenants with rights of survivorship**

These are the most common ownership interests which you will encounter. The offer will be addressed, and presented, to all parties.

Tenants in common may hold unequal interests. If the caption deed cites their interests, you should include a recitation of their interests on the deed granting clause. They would be cited as an "adult male (or female), an undivided 1/4 interest". If a tenant in common has died you should verify whether an estate was opened. (See Estates, 2(4)). If the tenant in common dies intestate, the interest passes to his heirs. You should obtain an "Affidavit of Heirship" (*see enclosure #2*) to identify the new interest(s).

If the property is owned as "tenants by the entirety," the marriage is considered the owner and both husband and wife will be made party to the offer and sign the deed. If one of the parties has died, the surviving spouse becomes the sole owner through their position as the sole partner in the marriage. You should obtain an "Affidavit of Surviving Spouse" (*see enclosure #3*) to document the new ownership.

All joint tenants with rights of survivorship hold equal interests and will be party to the offer. A joint tenancy's rights of survivorship must be specified in the caption deed granting clause in order to be created. If it is not specified, then the parties are tenants in common. If a joint tenant is deceased, you will obtain an "Affidavit of Death" (*see enclosure #4*) or a copy of the death certificate in order to document his interest passing to the surviving joint tenants.

## 2 (2)

### **Life Estates**

A life estate is a reservation/subjection in a deed which grants a right, to either the grantor or a third party, to occupy and earn profits from a property during their lifetime. This interest will expire upon the death of the life estate interest. Life estates are treated the same as a tenant in common ownership except that their limited interest will be noted in the offer and deed granting clause (Life Estate Interest Only). If the life estate interest has died you should obtain an "Affidavit of Death" to eliminate this interest.

## 2 (3)

### **Contract Buyers**

A contract buyer is considered to hold an equitable interest in the title to the extent of his investment. The contract buyer will be made a party to the offer and his interest cited. Contract buyers are treated as an ownership interest except that they are allowed to quit claim their interest if they object to signing a warranty deed. (See Chapter 8, deed preparation). If they sign a warranty deed their limited interest will be noted in the granting clause (Contract Buyer's Interest Only). If a contract buyer dies, you will treat his interest in the same manner as the above ownerships depending upon whether the nature of his interest in the contract was as a tenant in common, tenants by the entirety or a joint tenant.

## 2 (4) Estates

If the owner of record is deceased you should review the estate file in the county clerk's office to determine if the estate is open or closed. An estate must be filed in the county of the subject property even if the owner resided and died elsewhere.

### Closed estates

If the estate is closed, you should get a copy of the court's order of final decree, which distributes the assets, to determine the new owner(s). You will make the offer to the new owner(s). The new owner(s) must record this court order, an affidavit or an executor's deed in order to be recognized as the owner(s) of record on the auditor's plat. While the court order does grant legal title, if unrecorded the auditor will reject INDOT's deed from the heir for recording because it conflicts with the auditor's transfer book which still reflects the deceased's ownership. This problem can easily go unnoticed in the buying phase but it will create a problem for the Records Section. The parcel will eventually be returned to you to make the necessary arrangements for the auditor to recognize INDOT's deed.

### Open estates

If an estate is open, the offer should be made to the estate through the executor/personal representative. You will address the offer to the "Estate of John Doe" and present it to the personal representative. A copy of the order appointing the executor will specify if the estate is unsupervised, thus giving the executor authority to sell property. If the order does not specify unsupervised, then the estate is supervised by the court. **The executor must petition the court for approval of the sale.** INDOT will pay reasonable attorneys fees, **if necessary** and as approved by the buying manager, for petitioning the court. The executor will sign the deed after receiving a court order approving the sale. **A copy of the order appointing the executor and the petition and order to sell must accompany the signed deed.** Please note that the deed cannot be signed and dated prior to the date of the court order providing authority. IC 29-1-15-2 does provide for a sale of real estate by an executor of a supervised estate without court order if such authority was specified in the will. A copy of the will filed with the court must accompany the deed in these cases, to document his authority to sell.

## 2 (5)

### Guardian

If an owner is incompetent or a minor he cannot legally convey property. The offer will be addressed to the owner but made to the owner's guardian. If the owner does not have a guardian, INDOT will pay reasonable attorney's fees, as approved by the manager of buying, to petition the court to appoint a temporary guardian. If the owner currently has a guardian, INDOT will pay the attorney's fees to petition the court for approval of the sale. The guardian will sign the deed after receiving a court order approving the sale. **Copies of the order appointing the guardian, petition to sell and order approving the sale must accompany the deed.** Please note that the deed cannot be signed and dated prior to the date of the court order providing authority.

## 2 (6)

### Trust

If a trust owns the property, the offer will be made to the trust through the trustee(s). Proof of the trustees' authority to convey must accompany a signed deed. Proof of authority can be either a trustees affidavit, (*see enclosure #5*), a copy of the trust, or trustee authority jurat

added to the text of the deed. (For confidentiality, this may be limited to the pages which establish the trust, appoint a trustee, cite his authorities and the signature page). The trust may use a Trustee's Deed to convey, upon review and approval by the buying manager. Please note that if the trustee is made payee his position must be cited in the payee name; ie: "John Doe, Trustee". This will avoid any claims by the trust that INDOT invited misappropriation of funds, should the trustee not distribute the sale proceeds as specified in the trust agreement.

## 2 (7)

### **Power of Attorney**

A power of attorney is an authority granted from one party to another to conduct business on the Grantors behalf. The power to sell real estate is not usually granted in a standard power of attorney. **When an owner has granted a power of attorney, the buyer must verify that it specifically conveys the authority to sell real estate. The document must be recorded in the county of the subject property. A copy of the recorded power of attorney must accompany the deed. The deed must contain the prescribed clause citing the recording information.** (See chapter 8(2), *Deed Preparation* 8-23).

## 2 (8)

### **Mineral Interests**

Mineral interests may consist of oil and gas leases, coal leases, or a deeded fee interest in minerals. Mineral interests are separate from the overlying fee interest. A copy of the lease or mineral deed should be in the title report. The buyer should obtain a copy for the parcel file if it is not a part of the title report. **Please note that the abstract may not include the original mineral deed and the mineral interests are often recognized only by a reservation in the caption deed and not by a separate instrument.** Your review of the caption deed is critical to noting that this interest exists.

### **Oil/gas/coal leases**

**Please note that oil/gas/coal leases are not considered to be ownership interests but are included here because of their relationship to mineral interests.** Deeded mineral interests will be treated as an ownership and oil/gas/coal leases will be treated as leasehold interests. (See Interests less than fee, 2(22)).

### **Inactive oil leases**

The buyer should review the lease to identify the development requirements and specifications for extinguishment. IC 32-23-8-1 provides for the extinguishment of oil leases one year after the last payment of rentals, or after the cessation of operation either by nonproduction or nondevelopment. A lease which has not been developed, or which has been abandoned and royalties not paid, for over one year may be released of record by an affidavit of non-compliance. (See *enclosure #6*). It is important that the affidavit be obtained, even though the lease is obviously not in effect, in order to release it of record.

### **Indiana Code does not provide for the release of inactive coal leases by affidavit.**

The buyer should review the termination requirements of the specific coal lease in order to determine the appropriate actions necessary to extinguish the interest. This will probably require that the owner of the property or mineral interest send or publish a notice of cancellation to the lessee.

### **Active leases**

Each county has a different method of record keeping for oil wells and leases. The well number and operator's name, which are posted at the well site, will provide you with a starting point when you approach the county offices for information.

Oil leases may have multiple interests; working, royalty and overriding royalty. These interests may contain multiple parties, each holding a small percentage interest. The working interest is generally the operator of the well. The royalty interest will probably be the owner of the mineral rights. An overriding royalty interest is a party which obtained the lease but has conveyed his rights to the working interest while retaining a profit share. An understanding of these interests will assist you in determining whether a release is needed from an interest in any specific situation. Please note that the royalty interests are only valid if a working well exists. If it exists outside of, and unaffected by, the taking, and no other wells could be placed within this tract, only the working interest may have anything to release since the royalty interests are related only to the well, not the lease. If you encounter this complication you should review the situation with the buying section manager for direction. Oil, gas, or coal leases in good standing must be released by a quit claim deed and signature on the claim voucher.

### **Mineral interest deeds**

Deeded mineral interests are to be treated as an owner and made party to the offer; however, only under unique circumstances would this interest have a separately appraised value. Mineral interests must be released by a deed from the owner of the interest. If the owner objects to releasing his interest, a "release of surface rights only" clause may be added to the deed upon approval of the buying section manager. This clause would allow the owner to continue exploration/mining activities but prohibits penetration of the ground surface within the right of way acquired.

### **Inactive mineral interests**

IC 32-23-10-2 provides for the extinguishment of deeded mineral interests which are unused for 20 years. "Use" is considered to be actual production of minerals, payment of royalties or payment of taxes assessed by the county on the mineral interest. The buyer should obtain a mineral affidavit of non-compliance from the fee owner in these instances. (*See enclosure #7*). The buyer should review the county recorder's "dormant mineral interest record" to verify that the mineral interest owner has not filed a "statement of claim" extending the 20-year period.

## **2 (9)**

### **Classified Use Properties**

A property owner of a forest or wildlife habitat area may register his land with the Department of Natural Resources (DNR) as a classified use property. This classification will cause the county assessor to hold the real estate taxes in abeyance. If the property is removed from the classification, all accrued real estate taxes become due. Our deed must be recorded first or the property owner will be subject to all back taxes on the area of taking. The buyer should prepare a memo to the appropriate division (Forestry, Fish and Wildlife, etc.) notifying them of our acquisition and requesting that the area of take be removed from its classified status *after* our deed is recorded. (*See enclosure #8*). The memo will be held by the Buying Section until after the deed is recorded.

## 2 (10)

### **Federal Land Transfers**

Federal Land Transfers are regulated by Title 23 CFR 710.601 of the Federal Regulations. When it is necessary to acquire lands from a Federal Agency, a "submission of application" must be made through the Federal Highway Administration via the division administrator. The submission of application substitutes for the Uniform Land Acquisition Offer Letter and should be sent to:

Federal Highway Administration  
Division Administrator  
Room 254, Federal Office Building  
575 North Pennsylvania Street  
Indianapolis, Indiana 46204

A few crucial steps must be taken prior to sending the application. The first step is to contact the Federal Agency's civil engineer technician. This person must be provided with the plan and profile sheets, land plat, archaeological reconnaissance report, an environmental assessment report, and legal description. These items will provide the local office of the Federal Agency the information to do their scoping and to prepare a "decision memo" which will result in the preparation of an "Immediate Right of Entry" for INDOT.

The Submission of Application letter shall consist of the following information: Project number, parcel number, code number, and Des number.

- \* The first paragraph should state that the state desires to make application for transfer of the land held in title by the agency, and specifically mention which forest the land is within.
- \* The second paragraph should state the purpose for which the land is needed, the approximate location of the parcel and the interest to be acquired by a Highway Easement Deed.
- \* The third paragraph should state under what provisions the construction phase of the project will be performed. It must also state what specific agency and forest controls the land, as well as how and when the agency acquired title to the land.
- \* The fourth paragraph should state "In order that construction not be impeded, we are requesting an immediate right of entry onto the subject lands while the mechanics of the transfer are being completed."

The application letter must be signed by the chief, Land Acquisition Division for the commissioner.

The request package to be submitted will consist of the application letter, the highway easement deed, the legal description (Exhibit A), the land plat (Exhibit B), and a copy of the plan sheet and profile. These items must all be on 8.5" X 11" paper. An original plus two copies must be sent.

The time it takes to get the deeds back from the Federal Highway Administration will take anywhere from six months to one year or possibly longer. On return of the documents, the commissioner will need to sign all three copies. The deeds will then be sent out for recording.

When they are returned, a recorded copy must be sent to the Federal Highway Administration for their records.

### **National Park properties**

National park property is held in the name of " United States of America, Department of the Interior, National Park Service". All national parks in Indiana are administered by a superintendent at the park facility. The superintendent's immediate supervisor is the regional director. The offer should be made to the director whose address is:

United States of America  
Department of Interior  
National Park Service  
Midwest Regional Office  
1709 Jackson Street  
Omaha, NE 68102-2571  
Phone ( 402-221-3612)

INDOT'S Pre-Engineering Division will provide:

1. An environmental assessment and finding of no significant impact and;
2. A certification of public hearing requirement and socio-economic, ecological, environmental evaluations.

These items must be included in an application for transfer. Please note that the Park Service does not accept "categorical exclusions" and at a minimum, an environmental assessment must be made. The park superintendent has the authority to issue a "letter of authorization" which will serve as a Right of Entry. This should be pursued due to the lengthy process involved in transferring park property. An inquiry should be made to the agency prior to mailing the offer to insure that the parties are familiar with the procedures. The Park Service will issue a "Highway Easement Deed". INDOT Records, Code 2410, Parcel 1, has the only example of this type of conveyance.

This acquisition is so difficult and time consuming that the buyer should verify with the Design Division that the taking is absolutely necessary and cannot be eliminated, prior to beginning negotiations. If you need to reference a previous Federal Agency acquisition, see Project ST-095-3(L), Parcel #1, Code 2972 (Forest Service) or Code 2410 Parcel 1 (National Park Service) in the Division of Land Acquisition's records room.

## **2 (11)**

### **Reacquire Existing Right of Way (RER)**

Prior to 1960, INDOT acquired right of way by easement grant. The grant provided for the use of property as right of way with reversionary rights to the owner upon abandonment. These grants were not always recorded, sometimes recorded years later, and some counties refused to record them at all.

If an owner challenges the existing right of way line you should first review the abstract to determine if a recorded grant was included. If the owner took title by a deed "subject to all

existing rights of way and easements of record" after the grant was recorded, INDOT has valid title to the existing right of way.

The least desirable solution is to have the Records Unit search for proof of grant; Engineering add the existing right of way to the deed; and for Appraising to adjust the offer. The appraisal will only pay for the area to the edge of pavement, as the area beneath the existing roadway is considered acquired by prescriptive easement. While this method is time-consuming for all Sections, *it is preferable to condemnation.*

## 2 (12)

### **Bankruptcy**

If you encounter an owner who has filed bankruptcy, you should ask the owner the name of his attorney. You will ask the attorney to petition the court to approve the sale. Any property held as an asset in a bankruptcy must have court approval of the sale. If the bankruptcy has progressed to the point that a trustee has been appointed, the trustee will be considered the owner of the property and receive the offer. **The petition to sell, the certified notice to creditors and the order from the bankruptcy court approving the sale must accompany the deed, signed by either the owner or the bankruptcy trustee.** You should review the court order to verify that the sale is free and clear of all liens and that clear title will be conveyed to the state. The deed will be signed by either the owner or the bankruptcy trustee and must be submitted to the Attorney General's Office for approval prior to processing payment.

## 2 (13)

### **Local Government Property**

Political subdivisions of the state, including any county, municipality, township, municipal corporation, or special taxing district, are authorized to convey lands to the State, with or without consideration, for the construction or improvement of any state highway. (IC 8-23-18-3). A municipal corporation may be a school corporation, housing authority, fire protection district or other special taxing district, to name but a few. The deed which will convey to the state must contain the clause "for use as a state highway or for highway purposes" in order to establish the governmental unit's authority to convey under IC 8-23-18-3. The sale of property is subject to the approval of the executive or the fiscal body if the political subdivision has no executive. **If the subdivision is a municipality (cities and towns), county or township, the fiscal body must approve the sale of real estate valued at \$10,000.00 or more.**

"Executive" means:

1. For a county - the board of commissioners.
2. For a county with a consolidated city (Marion Co./Indianapolis) - the mayor.
3. For a city - the mayor.
4. For a town - the president of the board of trustees.
5. For a township - the trustee.
6. For a school corporation - the superintendent
7. For all other subdivisions - the chief executive officer.

"Fiscal body" means:

1. For a county - the county council.
2. For a county with a consolidated city (Marion Co./Indianapolis) - the city-county council.
3. For a city - the common (or city) council.
4. For a town - the board of trustees.



5. For a township - the township board.
6. For all other subdivisions - the governing/budget board.

If you are acquiring property from a county, you should present the offer to the county commissioners. The deed must be supported by a resolution by the commissioners or a copy of the board meeting minutes, certified true and correct by the county auditor. **Please note that IC 36-2-2-20 establishes a \$1,000 limit for conveyances not requiring approval by the fiscal body of a county. Deeds for over \$1,000.00 will be supported by a resolution by the county council.**

If you are acquiring property from a city or consolidated city (Indianapolis) you should review the caption deed to identify the exact grantee. If the caption deed conveys to "the City of Columbus", you should make the offer to the mayor or his representative. The mayor will sign a deed for less than \$10,000.00 supported by an Executive Authority Affidavit. (*See enclosure # 9*). The mayor will sign a deed for more than \$10,000.00 supported by a resolution by the city council or city-county council.

If you are acquiring property from a city but the caption deed identifies the grantee as "the City of Columbus by its Parks Department," you will make the offer to the parks board director **but the mayor will still sign the deed.** It will be supported by a resolution by the parks board. This logic will apply to any department of a city or county which is cited as the grantee in the caption deed; i.e. Department of Public Works, Street Department, etc. **Please note that local ordinances may provide other officials the authority to convey and override these guidelines of authorization.**

If you are acquiring property from a town you will make the offer to the president of the town board. The deed will be signed by either the president or the entire board as directed by the adopted resolution by the board. **All conveyances from towns must have town board approval (IC 36-5-2-9).**

If you are acquiring property from a township you will make the offer to the trustee who will also sign the deed. Deeds for over \$10,000.00 will be supported by a resolution by the township board.

## 2 (14)

### Corporations

Corporations must be registered with the Secretary of State in order to have legal standing in the state. All acts by the officers of a corporation must be within their authority as prescribed in the bylaws of the corporation or as directed by a resolution of the board of directors. The bylaws are within the control of the board of directors. All corporations must have a board of directors, except corporations with less than 50 shareholders. All corporations must have at least one officer and any individual may hold more than one office.

You should make the offer to the corporation through an officer or his representative, such as a property manager. An officer, typically the president, authorized by the board of directors, will sign the deed and his signature will be attested by a second officer, typically the secretary. While Indiana law does not require the officer's signature to be attested, the Attorney General's Office prefers that all deeds have an attest to ensure good title. The officer's authority to convey will be established by obtaining a corporate authority affidavit (*see enclosure 10A*) signed by a second officer, a certified copy of a resolution of the board directing him to convey, or a corporate jurat added to the text of the deed.

If you encounter a one person corporation you should verify the officers with the Secretary of State's corporations office. If the incorporation filing does indeed show only one person holding multiple offices, the officer may sign the corporate authority affidavit, as secretary, indicating that he is authorized to sign a deed as president. (*See enclosure #10, Corporate Authority Affidavit*).

## 2 (15)

### **Partnerships**

A partnership is an association of persons for business purposes. You will make the offer to the partnership through one or all of the partners. All partners are general partners and any one may act for the partnership unless specified otherwise in the partnership agreement. You may have one partner sign the warranty deed and a "Partnership Authority Affidavit" (*see enclosure #11*) to verify his authority to convey for the partnership, include a partnership jurat within the text of the deed, or you will have all partners sign the warranty deed.

### **Limited Partnerships**

Limited partnerships must be registered with the Secretary of State's corporations office. **Only general partners in a limited partnership have the authority to act for the partnership and then only if the partnership agreement specifies their authority to convey real estate.** You should make the offer to the partnership through the general partner, who will sign the partnership affidavit and warranty deed. A corporation may be the general partner of a limited partnership. In such instances you will obtain a partnership affidavit and a corporate authority affidavit to verify the corporation's authority to act as general partner and the officers' authority to act for the corporation.

### **Limited Liability Companies**

Limited liability companies must be registered with the Secretary of State's corporations office. Limited liability companies consist of members who share managerial responsibilities. The company may delegate all decision-making power to a manager in the company's Articles of Organization. The Secretary of State's corporations office can verify if the articles give the authority to convey to the manager. You should make the offer to one or all of the members or to the manager, if one exists. All members will sign the deed or the manager may sign the deed with proof of authority from the articles, adding an LLC jurat to the deed, or upon signing a "Manager's Authority Affidavit". (*See enclosure #12*).

## 2 (16)

### **Companies**

You will make the offer to the company through the president of a company or his representative. The president will sign a "President's Authority Affidavit" (*see enclosure #13*) and the warranty deed to convey land on behalf of a company.

If you encounter a one person company (a sole proprietorship eg.-John Doe, Doing Business As Doe Sign Co.), you will make the offer to the company through the president/sole proprietor and document his authority by obtaining a "Sole Proprietorship Affidavit". (*See enclosure # 14*).

## 2 (17)

### **Railroads**

Railroads are unique properties due to the methods by which they acquire and hold title and pay real estate taxes. The title report should contain the instrument by which the railroad

took title. The key issue and the first task is to determine if it is an active or abandoned line. The only true source of this information is the railroad itself. There may be corridors without rails or ties and still be an active line, i.e., the procedure of abandonment has not been performed; and there may be corridors with rails and ties that are abandoned, i.e., the rails and ties are being left in place until they can be used elsewhere or salvaged.

If it is determined to be an active line, the next task is to determine the type of proposed use of the railroad property, e.g., crossing (at grade or separation) or longitudinal.

If the use is at a crossing, the Railroad Section of the Real Estate Section will negotiate a construction agreement with the railroad's engineering department. Land Acquisition will not be involved. If the use is longitudinal, the Real Estate Section will need to acquire a perpetual easement.

If the line has been abandoned, the first task is to determine the quality of title held by the railroad. This is usually determined from the deed to the original railroad. The two categories are fee and anything less than fee. To determine quality of title, here are some suggestions:

1. Thoroughly review the instrument, paying particular attention to the language and intent of the conveyance.
2. Where the language is unambiguous, you need not be concerned with other matters. If the instrument is a warranty deed using the terms "convey and warrant" and "fee simple" the intent is clear.
3. Where the language is ambiguous, you must carefully consider the intentions of the parties.
4. If the instrument conveys lands, not rights, with no restrictions, adequately described, chances are good that fee title is being conveyed.
5. If the instrument grants a "Right" or "Right of Way", then only an easement has been conveyed.
6. If the instrument conveys an interest "exclusively for railroad purposes", only an easement has been conveyed.
7. If the instrument conveys an interest for a specific period of time, only an easement has been conveyed.
8. If the instrument contains any type of reversionary clause, only an easement has been conveyed.

Although Indiana appellate courts have used their discretion in determining whether fee simple interest has been conveyed, if an instrument is questionable, the trend seems to be in favor of determining that an easement, rather than fee simple interest, has been conveyed.

If the railroad holds fee simple title, then the acquisition is the same as any other corporation holding fee title to property. If the railroad held anything less than fee simple title, their interest vanished when the line was abandoned and ownership reverts to the successor in title to the original grantor.

## 2(18)

### **Unknown ownerships**

You will occasionally receive a parcel with title work which was unable to identify an owner of record. This may occur due to historical record error, survey error, an eminent domain taking by court order which was not recognized by the auditor, or a multitude of other causes. These are usually very small pieces of ground which have been lost in the records system and do not justify the expenses involved in correcting the title. It is the buyer's responsibility to research

the issue thoroughly in an attempt to identify the best ownership claim. You should review the auditor's plat book and compare it to the assessor's plat to verify that no taxes are being assessed to the property. View the site to identify the current use of the property and who might be in possession. If an adjoining owner can prove that taxes are actually included in his parcel and he has been in open, hostile, continuous possession for 10 years, an adverse possession affidavit (*see enclosure #15*) can be used to establish title. If you are still unable to identify an owner, a 50 or 100-year title search may be necessary to identify the last owner of record. If all attempts to identify an owner fail, you should review the problem with the Buying Manager to determine whether a published offer and condemnation or an administrative acquisition is appropriate.

Any parcel which has any reference to a railroad ownership in the title work or on the plans requires very careful investigation prior to declaring it unknown due to the unique property ownership records involving railroads. Railroads pay property tax through the Auditor of the State of Indiana, as opposed to the county treasurer, based on the number of miles of active line, as opposed to acreage. Therefore, establishing ownership through tax records is impossible. A railroad may have acquired title 100 years ago through an eminent domain suit with an unrecorded court order. Any unknown parcel with historical reference to railroad ownership must be reviewed with the Buying Manager prior to allowing any claim of adverse possession or submission of the parcel for an administrative acquisition.

## **2 (19)**

### **Associations**

Associations are non-profit groups with an elected leadership, united for a specific purpose. The most common associations are condominiums, unincorporated churches and special clubs, such as a hunting club. You will identify the elected leadership and verify that they have authority to convey under their bylaws. The Affidavit of Church Trustee's Resolution (*enclosure #16*) can be used to document a church leadership's authority to convey. A certified copy of the actual resolution may be substituted for the affidavit.

If the association is not a church the buyer should obtain a resolution or an Affidavit of Association Resolution (*see enclosure 17*).

### **Condominiums**

If the association is a condominium you will need to take additional steps to identify what ownership interests you will need to acquire. The title work may or may not include a copy of the declaration and bylaws of the association. These documents will establish the authorities and procedures for the sale of property.

A condominium is a collective group of co-owners, each holding a percentage interest in the common property (the land and buildings). A condominium unit is the interior space within a building which is considered real property and is owned in fee simple by an individual. The individual will also own a percentage interest in the common area real estate. The co-owners' association is an informal body without any ownership interest. It is established under the bylaws of the regime for the purpose of enforcing the bylaws and authorizing maintenance expenditures.

If you are acquiring a fee simple interest it will be necessary to release each co-owners' interest. If you are acquiring a building you would treat the land and building as one parcel and the owners of the units in that building as separate parcels.

2(20)

### **Cemetery Purchases**

Although it is extremely rare, purchases from cemeteries can occur. According to state law (IC 23-14-44-1) a highway cannot be built across any part of a cemetery within 100 feet of a space in which burial rights have been transferred, without consent of the owner of the cemetery. IC 23-14-44-2 further adds that upon the complaint of any person, a permanent injunction shall be issued to prevent any other person from construction a road on any ground that is held for cemetery purposes.

If construction requires the relocation of burial sites, the Buyer must make a diligent effort to locate the next of kin, and obtain permission from each of them. If no relatives are found alive, then the judgment and approval must be obtained from the Superior or Circuit Court of the County where the graves are situated. Court approval is obtained through the services of the Attorney General's office, with information provided by the Real Estate Section. Court approval should be attempted whether relatives have given consent or not. In accordance to IC 23-14-57-5, the Department must obtain permission from the landowner to remove the bodies. A suitable public cemetery must be located for reinterment of the bodies. All cemeteries within the county that permit the public to be buried in their cemetery should be contacted. A written agreement must be entered into upon between the State and the designated cemetery. A permit must be obtained from the State Board of Health to disinter, remove, and reinter human remains and must be conspicuously displayed at both the disinterment and reinterment sites. A licensed funeral director or embalmer must be present at all times during disinterment and reinterment.

## **INTERESTS LESS THAN FEE**

**Interests of less than fee must be released but are not made a party to the offer. These interests will be contacted and the project explained to them. A quitclaim deed and claim voucher, along with any necessary supporting documents such as affidavits, will be signed in order to release their interests.**

2 (21)

### **Easements**

Easements which will be affected by the taking must be released by quitclaim deed (except for public utility easements to which INDOT's deed is subject). The easement holder should be contacted, the plans explained and a release by quitclaim obtained. Under some circumstances a release of easement can be waived, upon prior approval of the buying manager.

### **Prescriptive easements**

A prescriptive easement can be created by adverse use (actual, open, hostile and continuous) or by the acquiescence of the owner, for an uninterrupted period of 20 years. You may encounter a situation in which the taking will impact an adjoining owner who will claim damages based on a loss of prescriptive easement. You should review the issue with the manager of buying for the validity of the claim and possible resolution of the problem.

### **Way of Necessity**

A way of necessity is a legal easement created when a public construction project, such as a ditch relocation or dam, creates a landlocked parcel and the owner is unable to obtain an easement from adjoining owners. These are primarily historical issues since current acquisition practices require that the owner be paid landlocked residue damages or acquired as excess land. You may encounter a way of necessity in the title work of a parcel. If it is affected by the taking it should be treated in the same manner as an easement.

## **2 (22)**

### **Leases**

Leasehold interests generally require a release by quitclaim deed. **A lessee is usually not made a party to the offer except when lessee owned improvements are within the acquired area, such as signs or restaurant equipment.** In such cases you will address the offer to both the owner and the lessee, noting the lessee's limited interest. To ascertain if trade fixtures are being acquired, coordination with the appraising and/or relocation sections must be undertaken. The appraisal may include a separate Statement of Just Compensation for the lessee's property. If there is no separate SJC for the lessee, you must note the two separate values in your buyers reports to each party. The breakout of the values of each interest will help the parties to evaluate the offer, avoid a secondary set of negotiations among them and assure that the appropriate party is paid for any improvements, thus establishing their responsibility for removal of items from the right of way.

Any claimed loss in leasehold value is a matter between the owner and the lessee. In certain cases where a lessee has a long term lease at a favorable rate below economic rent, the appraisal may recognize the damage to the leasehold value. This damage would be addressed in the same procedures as the lessee owned improvements.

A lessee's interest can be waived if the taking does not affect his/her lease value or use of the property. An example of a waivable release of leasehold interest would be a tenant in a shopping center whose lease covers the entire common area boundaries of the property. The area of take is a green strip between the parking lot and the right-of-way. The lessee will still enjoy the same use and benefits of the leased area without a loss (or significant loss) in parking. Furthermore, it would not be feasible to release 10 or 50 corporate leasehold interests in the shopping center.

A memo explaining the circumstances of the waiver of leasehold interest must be submitted, with prior approval, for the Office of Real Estate Manager's signature.

## **2(23)**

### **Farm Tenants**

A farm tenant is usually a year to year oral lessee for the purpose of farming. If the agreement is oral and year to year, the farm tenant's interest will be ignored because the owner will not renew it for the area acquired and the project is unlikely to disrupt his/her farming operations in the current year. If crops are damaged before they can be harvested, a claim will be paid through the district offices. A farm tenant is NOT made a party to the offer. If crop damages should occur in the current year he will be reimbursed. Damages in subsequent years may be paid as well. **However, if the tenant does have a written lease in excess of the current year you will need to release the tenant's interest through a warranty or quitclaim deed and claim voucher.**

## LIENS

Lienholders are not made a party to the offer but their interests must be released by the appropriate instrument to secure clear title.

### 2 (24) Mortgages

Mortgages are a lien against the real estate and must be released in order to provide clear title. Occasionally you will find a mortgage which the owner claims is satisfied but not released of record. You should verify that the mortgage is indeed paid off and have the owner submit a written request to the mortgagee for release. IC 32-28-1-1 requires that all mortgages or liens be released of record when they have been fully paid, including interest. If the mortgagee is no longer available to provide a release (such as a mortgagee who is an individual and has since died or a corporation which has ceased business in this state) the mortgage release can be waived on the basis of IC 32-28-4-1. This statute provides for the expiration of a mortgage 10 years after the date of the last payment due (20 years after the date of the last payment due on mortgages issued prior to September 1, 1982).

Valid mortgages require the buyer to take the necessary steps to obtain a release. You should obtain the mortgage loan account number from the owner and contact the mortgagee. You will explain the taking and request a mortgage release, offering to make the mortgagee a co-payee. The mortgagee may prepare their own release. If so, you should review the release, upon receipt, to assure that it cites the correct mortgage recording numbers and legal description.

**You should prepare a mortgage release (see enclosure #18) and claim voucher to be submitted, with a plat, copy of the deed and a copy of the signed acceptance of offer, to the mortgagee for their review. A separate claim voucher and W-9 should be included if the mortgagee charges a release fee. They will sign this claim voucher as a claimant instead of as a lienholder.**

If the mortgagee requires payment prior to releasing, such as in a total acquisition, check delivery instructions should be included on the back of the claim voucher. (*See Claim Vouchers-Chapter 8*). When you encounter an out-of-state mortgagee who will not provide the mortgage release until payment is made, the attached letter (*see enclosure #19*) should be completed, attached to the claim voucher, and included in the check delivery instructions.

Complete the letter, i.e., name and address of the person you have made arrangements with, loan account number, etc., and submit it to the section clerk for typing.

Check delivery instructions will request that the letter be included in the check mailing package.

The office will maintain a log to account for releases which have not been returned 60 days after payment is made.

This letter will provide us with a method of tracking mortgage releases which are required in order to complete a transaction.

IC 32-29-5-1 requires that an officer sign the release. (*See enclosure #20*). A "loan officer" or "branch manager" is not authorized under IC 32-8-15-1 and a resolution authorizing their release powers must accompany the release. (*The Farm Credit Services branch manager does have authority to release under federal statute and will be excepted from this requirement. Please note that INDOT has an agreement with FCS to pay \$100 for all partial releases from any branch in Indiana.*) This statute also requires a separate instrument of release for each mortgage to be released. If a mortgagee has two loans on the same property you cannot release both with the same instrument. If a person or organization has a power of attorney for the mortgagee, the same procedures as described in Chapters 2(7) and 8(2) are required in order to sign a release.

## **Waivers**

Mortgages are to be released unless complications merit waiving. Then, partial takings valued at less than \$10,000 can be waived based on a Buyer's Report explaining the complications. Takings valued over \$10,000 require a memorandum of waiver, with prior approval of the buying manager, which is to be signed by the Manager of the Real Estate Section. (See enclosure #21).

Factors which will justify waiving mortgages would include a pending highway construction contract letting date, an unreasonable mortgage release fee of over \$300, or a lengthy release process taking six months or more. If these factors exist, the taking and mortgage condition must be evaluated to estimate the risk of foreclosure. The buyer should compare the payoff balance versus the appraised after-value, noting whether the loan payment status is current.

**Mortgage release waivers are not to be used as a shortcut to secure a parcel or meet a project target date. They are an assessed risk that INDOT must occasionally take in order to maintain a construction schedule.**

## **2 (25)**

### **Real Estate Taxes**

Real estate taxes in Indiana are paid a year in arrears. In other words, taxes which are assessed in the year 2004 actually become due and payable in 2005. Tax statements are usually mailed in March with one payment due May 10, and a second payment due November 10. Penalties and interest accrue on delinquent taxes. In order to convey clear title, the real estate taxes must be paid current, or paid in advance, depending upon the nature of the taking. Prior to submitting the parcel for payment, the tax status must be checked and verified current.

Upon receipt of the state's deed for recording, the Auditor will change the plat book to reflect the state's ownership. They will forward the deed to the Assessor who will change the tax plat and status. The Treasurer will issue a new tax key number (on partial takings) or change the taxpayer information on a total acquisition. The State must not have taxes due on this new key number. If the taxes are delinquent, the owners must pay the past due taxes, penalties and interest. If the owner is unable to pay this before securing the parcel, then the past due taxes must be paid out of the proceeds of the acquisition.

INDOT will accept title to partial takings with the taxes only paid current, as opposed to the full year. The after-value of the property must be sufficient to ensure that the owner will pay the fall installment when it is due, in order to avoid a tax sale loss of the residue.

**INDOT requires that total takings have all assessed taxes paid prior to making payment to the owner.**

**The Indiana Tax Commissioners and the Attorney General have determined that the effective date of transfer is the date of the deed, not the date of payment or the date the deed is recorded. (See letter to County Auditors, enclosure #22.) Therefore, if a deed is signed prior to December 31, the effective date of transfer to the State will be the date of the deed and taxes for that year, payable the next year, will be forgiven.**

For example, if the deed was signed October 12, 2004, you should arrange for the owners to pay the November installment of the 2003 payable 2004 taxes. Payment was made January 6, 2005, and the deed was recorded February 20, 2005. The owner is not responsible for 2004 payable 2005 taxes which will be due in May of 2005. When a transfer takes place late in the



year you should inform the owner that the Auditor may not be notified of the transfer in time to change the ownership in the plat book before tax statements are mailed in 2005. While they may receive a tax statement in 2005, they will not be responsible for these taxes.

#### **IC 8-23-7-31(b)**

*(b) Real property and interests in real property acquired for permanent highway purposes are exempt from taxation from the date of acquisition, provided that all taxes, interest, and penalties recorded on the property tax duplicates have been paid. Where real property or interests in real property are acquired after the assessment date of any year but before December 31, the taxes on the property in the ensuing year are not a lien on the property and shall be removed from the tax duplicates by the county auditor. A property owner who on or after March 1, 1965, conveyed real property or rights in real property to the department and who after July 8, 1965, is assessed taxes upon the property or rights conveyed and who pays the taxes by reason of the failure of the department to properly record the interest in the real property conveyed with the county auditor and recorder for tax purposes may recover the amount of the taxes from the department.*

#### **Interim period**

If the deed is signed after, for example, December 30, 2004, and before the 2004 payable 2005 tax statements are issued, it is not possible to pay the unknown taxes in advance. However, the owner is responsible for the 2004 payable 2005 taxes because they had ownership and possession of the property for the entire year of 2004. Therefore, you should add a clause to the deed which establishes the owner's responsibility for the taxes when they become due. The buyer and the owner should both initial this clause:

*"The Grantor(s) assumes and agrees to pay the 2004 payable 2005 real estate taxes on the above described real estate."*

#### **Vouchering Delinquent Taxes**

If the owner cannot pay the delinquent taxes, you should arrange to pay the taxes out of the sale proceeds. Prepare a separate voucher co-payable to the owner and the County Treasurer for the exact amount of the tax bill as projected 90 days forward to the date of payment. **The Treasurer will not accept partial payment or overpayment. The check must be for the exact amount due.** Therefore, you must verify with the Treasurer and the Auditor *all* the fees and penalties which are due, and will be due, before the State's check will be available. **Verify that the property is not listed for tax sale this year. If it is on the tax sale list there will be a \$50.00 advertising fee, which is not reflected on the tax statement, but must be paid even if the ad has not yet been placed.** The Auditor may also have fees assessed for tax sale processing. (See Chapter 8, Claim Vouchers, for examples use the same procedures for check delivery as mortgagee as a co-payee.)

#### **Properties sold for taxes**

If a property has been sold for delinquent taxes the highest bidder will receive a tax sale certificate which entitles him to receive a 10% return on the sale price. If the owner does not pay all accrued taxes, penalties, interest and tax sale fees within one year of the tax sale the certificate holder may redeem the certificate for a deed from the county auditor. You will treat a certificate holder the same as a lienholder. He is not made a party to the offer nor does he sign the deed. The owner must clear all tax liabilities, including the certificate, in order to convey clear title. The certificate holder would be cited in a condemnation report as a lienholder.

## Waiving Taxes

It is never desirable to take title subject to liens, but some situations will require waiving the taxes in order to avoid a condemnation. If the delinquent taxes (e.g., \$1500) exceed the value of a partial taking (e.g., \$250) and the owner is unable to pay them, the buyer should evaluate the necessity of a waiver. **Before a waiver is considered, the buyer should ask the auditor if a new tax key number could be assigned for INDOT's taking and taxes prorated to it.** Some auditors may be willing to do this and it may establish a tax due which is within the amount of the offer. If it is not possible to satisfy the taxes due, the buyer should review the value of the taking, the amount of the delinquency, the after-value of the property, and alternative solutions (such as an administrative settlement) with the manager of buying to determine if a waiver is appropriate.

***Taxes can never be waived if the property is on a tax sale list or has already been sold and is within the one year redemption period. The purchaser of the tax sale certificate would then have an interest in our taking. Taxes can never be waived on a total taking.*** Upon approval of the waiver by the Manager of Buying, a waiver should be prepared, explaining the necessity of waiver, and placed in the front of the secured parcel. (See enclosure #23.)

## 2 (26)

### Personal Property Taxes -- Mobile Homes

INDOT occasionally acquires mobile homes which are not relocatable. **Mobile homes are subject to personal property taxes which are both assessed and payable for the same year.** The buyer should verify that all personal property taxes are paid for the year before submitting the parcel for payment. (See Chapter 8 (17), Mobile Homes, for more detail on these acquisitions.)

## 2 (27)

### Mechanics liens

Contractors and suppliers can file a mechanic's lien against a property for labor, materials or credit which was supplied to construct a building on the property. These liens are routinely filed during the construction of buildings to insure that the owner will pay all his contractors. These liens are filed in the Miscellaneous Book of the recorder's office in the county where the property is located. If you notice a newly constructed building on the subject property you should verify that no mechanic's liens are still of record.

If the lien is over one year from the date payment was due and no lawsuit for collection is pending, the lien will be considered expired as provided for in IC 32-28-3-6. If the lien is less than one year old and the owner doesn't feel the lien is valid, he should contact the lienholder to request a release be filed. If the lienholder will not release, the owner may issue a written notice to the lienholder to commence suit within 30 days of receipt of notice. If the suit is not filed within 30 days the lien becomes void. The owner may then file an affidavit with the recorder stating that no suit was filed after notice, and the recorder will release the lien on the basis of this affidavit.

If a suit is pending, the owner may post a surety bond with the court to ensure payment if a judgement is issued. If the bond is accepted by the court, the court will issue an order to release the lien.

The lienholder may be treated as a mortgagee and be made a payee or co-payee from the proceeds of the sale if the lien is valid and the owner agrees. The lienholder would sign the claim voucher, a W-9 if receiving a separate check, and a release of mechanic's lien. This release

is not an INDOT form. It is available at stationer stores and should be provided by the lienholder.

The lien may be waived only on partial takings with sufficient after value when all other methods to release it are not feasible. A waiver (see enclosure 2-23) should be prepared, upon approval of the buying manager, signed by the Chief of the Land Acquisition Division, and placed in the front of the parcel.

## 2 (28)

### **Judgements**

Judgements are a finding by a court of a financial obligation against a person. If the person owns property the judgement becomes a lien against his property. As with a mechanic's lien, the buyer should investigate the judgements' validity and note the date of the judgement. Occasionally the judgement holder will fail to release a satisfied judgement. IC 35-55-9-2 provides for the expiration of the judgement after ten years, exclusive of the time during any appeal process or other restraint of the order. Therefore, **a judgement may be waived if it is over ten years old and no activities, such as an appeal, took place after the order.**

The buyer will review the judgement book in the clerk's office of the county in which the property is located. If the judgement is determined to be valid and does not exceed the offer amount less any senior liens requiring payment, the judgement holders will be made a payee or co-payee from the proceeds of the sale, signing the claim voucher and W-9 (if receiving a separate check). **Note that a judgement may continue to accrue interest monthly and a payoff will require the buyer to project the total due at the date the check will become available.** *The check delivery instructions will include directions for the Property Management Unit to accompany the judgement holder to the clerk's office to sign the satisfaction of judgement.*

## 2 (29)

### **Uniform Commercial Code fixture filings**

A Uniform Commercial Code fixture filing, under IC 26-1-2.1-309 and 26-1-9-402, is a form of a financing statement in which goods are used as collateral for a loan. The goods become fixtures when they are "so related to particular real estate that an interest in them arises under real estate law;". A UCC filing will be found in the recorder's office in a UCC file. A fixture filing creates a lien on the fixture and can be waived if the fixture is not a part of the taking. A filing may be against a satellite dish, solar panels, or grain bins. If the fixture is within the taking, the UCC filing must be released. If the goods are crops, the UCC filing must contain a description of the real estate concerned. This does not mean that the real estate is encumbered to any greater extent than its relationship to the crops.

**A UCC fixture filing is valid for a period of five years from the date of filing but a continuation statement (renewal) may be filed within six months prior to the expiration date.** If the owner states that the loan is paid yet the UCC filing is not released, the owner should send a written request to the lender requesting a termination statement to release the filing. IC 26-1-9-404 requires the lender to file a termination statement within 10 days of a written request.

## **2 (30) Federal and State Tax Liens**

**Tax liens cannot be waived.** If you encounter a tax lien you should contact the appropriate agency (either the Internal Revenue Service or the Indiana Department of Revenue) and request a release of lien ( or partial release on a partial taking). The requirements for release are established in IRS publication 783, "Certificate of Discharge from Federal Tax Lien". The IRS or Department of Revenue will be made a co-payee to the proceeds of the purchase and the parcel can be submitted for payment on the basis of a memo to the file referencing a letter from these agencies stating that the lien will be released upon receipt of payment. The agencies may be willing to release based on the security of the after taking value of the property.

**NOTICE  
LAND ACQUISITION NAME CHANGE**

Project ST-4693(B)Parcel 2LA Code 3196Former Name Jacques LaFitte

Subject property is now being purchased by Contract Purchase, in name of:

Name \_\_\_\_\_

Address \_\_\_\_\_

Subject property has been sold, and is now titled in name of:

Name Nicki Lauda et uxAddress: 6920 Emerson Avenue, Indianapolis, IN 46237Deed Date 7-19-89Recording Date 7-23-89Inst. No. or Book & Page 8900165New Mortgage? 8900632

Subject property owner has name change due to merger or name change:

Name \_\_\_\_\_

Recorded? \_\_\_\_\_ Inst. No. or Book &amp; Page \_\_\_\_\_

Secretary of State? \_\_\_\_\_

REMARKS: \_\_\_\_\_

\_\_\_\_\_  
Len Divita, Buying Section  
Originator, Section

\_\_\_\_\_  
7-14-95  
Date

STATE OF INDIANA )

Project: ST-4296(B)Parcel: 6Code: 2295COUNTY OF Marion )

)SS:

## AFFIDAVIT OF HEIRSHIP (INTESTATE DECEDENT)

John Barnard being duly sworn upon (his) (~~her~~) oath says that (~~he~~) (~~she~~) is 49 years of age and knew in (his) (~~her~~) lifetime, Lois Barnard, now deceased, and knows that said decedent died on or about July 19, 19 92, in Marion County, State of Indiana, owning real estate located in Marion County, Indiana, and described as follows:

See Exhibit A

and that said decedent died intestate and without a will and left surviving (~~him~~) (~~her~~) the following named person(s), to wit:

## NAME / RELATIONSHIP TO DECEASED

<u>John Barnard</u>	<u>Husband</u>
<u>William Barnard</u>	<u>Son</u>
<u>Cathy Barnard</u>	<u>Daughter</u>

as (~~his~~) (~~her~~) sole and only heirs at law and that no administration was had upon the estate of said decedent, but that all funeral expenses, expenses of the last illness of debts of every kind and character were fully paid, that no Indiana Inheritance Taxes or Federal Estate Taxes or any other taxes which might have been assessed against such estate are due or payable on said estate or the assets distributed therefrom.

The affiant makes this affidavit for the purpose of inducing the State of Indiana to accept a deed from the grantor thereon conveying all or part of the aforescribed real estate of the State of Indiana.

John Barnard  
(Affiant's Signature)

John Barnard  
(Affiant's Printed Name)

Before me, a Notary Public in and for said County and State personally appeared John Barnard, who acknowledged the truth of the statements in the foregoing affidavit on this 14th day of June, 19 95.

Edmund Kelly  
Notary Public (Signature)

Edmund Kelly  
Notary Public (Printed Name)

My Commission expires February 19, 1997

My County of Residence is Marion

STATE OF INDIANA )  
 )SS  
COUNTY OF St. Joseph )

Project: F-195-2(G)  
Parcel: 17  
Code: 2346

## AFFIDAVIT OF SURVIVING SPOUSE

I, Wilson Pickett, the undersigned affiant,  
being duly sworn upon my oath, hereby say that I am 83 years of age and that I am the owner of the  
following described real estate interest located in Allen County, State of  
Indiana, to wit:

SEE EXHIBIT A

Affiant further says that *(he) (she)* is the surviving *(wife) (husband)* of Doris Pickett

\_\_\_\_\_ who died intestate in the County of St. Joseph

State of Indiana, on May 1, 19 93, until the date of decedent's death and were so living together on said date, that no administration was had upon the Estate of the said decedent, but all funeral expenses, expenses of the last illness and debts of every kind and character were fully paid, that no Indiana Inheritance Taxes or Federal Estate Taxes or any other taxes which might have been assessed against such estate are due or payable on said estate or the assets distributed therefrom.

The affiant makes this affidavit for the purpose of inducing the State of Indiana to accept a deed from the grantor thereon conveying all or part of the aforescribed real estate to the state of Indiana.

Wilson Pickett  
Affiant's Signature

Wilson Pickett  
Affiant's Printed Name

Before me, a Notary Public in and for said County and State personally appeared Wilson

Pickett, who acknowledged the truth of the statements in the foregoing affidavit on this 3rd day of February, 19 95

Harold Noel  
Notary Public (Signature)

Harold Noel  
Notary Public (Printed)

My Commission expires March 4, 1996

My County of Residence is Parke

STATE OF INDIANA )  
 )SS:  
 COUNTY OF Johnson )

Project: MAF-260-1(2)  
 Parcel: 91  
 Code: 3130

**AFFIDAVIT OF DEATH**  
**(Life Estate Interest)**

I, Mary Alice Masters, the undersigned affiant, being first  
 duly sworn upon my oath, hereby depose and say that I am over 21 years of age and that I knew in  
~~(his)~~ (her) lifetime a person named Wanda Curson  
 who is now deceased, and that I know said descendant died on or about April 9, 19 91,  
 in Dade County, State of Florida.

Further affiant sayeth not.

Mary Alice Masters  
 (Affiant's Signature)

Mary Alice Masters  
 (Affiant's Name Printed)

Before me, a Notary Public in and for said County and State personally appeared Mary  
Alice Masters, who acknowledged the truth of the statements in the foregoing  
 affidavit on this 3rd day of October, 19 94.

Juan Taylor  
 Notary Public (Signature)

Juan Taylor  
 Notary Public (Printed Name)

My Commission expires June 2, 1995

My County of Residence is Marion



STATE OF INDIANA )

Project:

HDP-3164(2)

)SS:

Parcel:

1COUNTY OF Dubois )

Code:

3030

## TRUSTEE AUTHORITY AFFIDAVIT

Randy Tolsma, being first duly sworn upon his oath deposes and says:

That (he) ~~(she)~~ is Trustee of The Vivian Smith Trust, dated June 9, 1990

;  
that pursuant to the Trust Agreement (he) ~~(she)~~ has full authority to manage the affairs of said Trust and sign and execute documents its behalf, and that (his) ~~(her)~~ authority has not been revoked; that (he) ~~(she)~~ is therefore, fully authorized and empowered to convey to the State of Indiana real estate of this Trust, and that on the date of execution of said conveyance instruments it had full authority to so act.

Randy Tolsma  
Trustee (Signature)

Randy Tolsma  
Trustee (Printed)

*Before me, a Notary Public in and for said County and State personally appeared*

Randy Tolsma, who acknowledged the truth of  
the statements in the foregoing affidavit on this 18th day of September,  
19 94.

Vicki Richardson  
Notary Public (Signature)

Vicki Richardson  
Notary Public (Printed)

My Commission expires January 9, 1997

My County of Residence is Marion

STATE OF INDIANA )  
COUNTY OF Posey )

Project: F-139-2(A)  
Parcel: 32  
Code: 1928

## LESSOR'S AFFIDAVIT OF NONCOMPLIANCE BY LESSEE

Percy Sledge, being first duly sworn, upon its oath, deposes and says that it is lessor under the terms of an oil and gas lease, dated January 8, 19 83, recorded February 6, 19 83, in Volume 14, Page 306 of the miscellaneous Records of Posey County, Indiana, and that said lease covers the following described lands:

The North 1/2 of the SW 1/4 of Section 28, T 16 N, R 14 W

And further, deponent hereby swears that no rentals have been paid to or received by it or any person, bank, or corporation, in its behalf for a period of one year after rental was due and owing under the terms of said lease. Deponent further swears that there has been no drilling or development of any nature or kind whatsoever intended or designed for the production of oil or gas on the land covered by the lease referred to herein for the past one year.

This affidavit is made in compliance with Indiana Code 32-5-8-1 and is for the purpose of giving notice that said lease has been cancelled by the lessor pursuant to the provisions of said Statute.

Witness my hand this 3rd day of October, 19 91.

Percy Sledge  
(Affiant's Signature)

Percy Sledge  
(Affiant's Printed Name)

Before me, a Notary Public in and for said county and State personally appeared Percy Sledge, who acknowledged the truth of the statements in the foregoing affidavit this 3rd

day of October, 19 91.

Steven P. Penturf  
Notary Public (Signature)

Steven P. Penturf  
Notary Public (Printed)

My Commission expires March 9, 1993

My County of Residence is Greene

STATE OF INDIANA )  
 )SS:  
 COUNTY OF Monroe )

Project: STP-6309(C)  
 Parcel: 41  
 Code: 2728

### MINERAL INTEREST AFFIDAVIT OF NON-COMPLIANCE

Roberta White, being first duly sworn, upon ~~(his)~~(her) oath, deposes and says that ~~(he)~~(she) has had personal knowledge of the following described real estate for the past twenty (20) years:

See Exhibit A

Deponent further swears that there has been no mining or development of any nature or kind whatsoever intended or designed for the production of *(oil) (gas) (mineral) (coal)* on the land covered by the mineral deed found in deed book 17, page 209, of the Monroe County Recorders office referred to herein for the past twenty (20) years.

This affidavit is made in compliance with Indiana Code 32-5-11-1 and is for the purpose of giving notice that said mineral interest has been cancelled pursuant to the provisions of said Statute.

Witness my hand this 3rd day of June, 19 94.

Roberta White  
 (Affiant's Signature)

Roberta White  
 (Affiant's Printed Name)

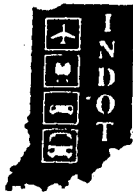
Before me, a Notary Public in and for said County and State personally appeared Roberta White, who acknowledged the truth of the statements in the foregoing affidavit this 3rd day of June, 19 94.

David A. Jose  
 Notary Public (Signature)

David A. Jose  
 Notary Public (Printed)

My Commission Expires August 9, 1995

My County of Residence is Marion



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

Enclosure 2 - 8

EVAN BAYH, Governor  
STAN C. SMITH, Commissioner

Writer's Direct Line:  
317/232-5050

MEMORANDUM

TO: Mr. Greg Blythe  
District Forester  
Department of Natural Resources

FROM: Kevan L. McClure, Manager *KLM*  
Buying Section  
Division of Land Acquisition

DATE: August 25, 19 95

RE: Project: MAFC-24-6(F)  
Parcel: 13  
Code: 2334  
County: Jackson  
Owner: Fine, Larry et ux

The Indiana Department of Transportation is undertaking a project to realign SR 109

in Jackson County. In order to accommodate the planned improvements, it was necessary for the State to acquire .085 of an acre(s) of permanent right-of-way off the above-referenced property. This property is currently under contract with your department for use as a "Classified Forest".

I have enclosed a land plat and legal description showing the area acquired. Please file a notice with the Jackson County Auditor to release this area from the classified status. If this information proves to be insufficient, or you would like additional assistance, feel to contact me at 2-5050. Thank you for your cooperation in this matter.

KLM/clm

xc: Records  
Parcel

STATE OF INDIANA )  
 )SS:  
 COUNTY OF Lake )

Project: RS-6392(A)  
 Parcel: 14  
 Code: 2642

## EXECUTIVE AUTHORITY AFFIDAVIT

Christian Wilson, being first duly sworn upon *(his)* ~~*(her)*~~ oath deposes and says:

That I am the duly elected *(Clerk)* ~~*(Treasurer)*~~ of the city of Crown Point:

That the Articles of Incorporation of the city of Crown Point empower the mayor to convey real estate and to execute all necessary instruments in connection therewith:

That the city of Crown Point shall be bound by all instruments executed by the mayor under the powers herein stated.

Christian Wilson, Clerk  
 Name (Signature) Title

Christian Wilson Clerk  
 Name (Printed) Title

*Before me, a Notary Public in and for said County and State personally appeared*

Christian Wilson, who acknowledged the truth of the statements in the foregoing affidavit on this 8th day of March, 1995.

Bonnie Craig  
 Notary Public (Signature)

Bonnie Craig  
 Notary Public (Printed)

My Commission expires August 6, 1995

My County of Residence is Lake

STATE OF INDIANA )

COUNTY OF Henry )

)SS:

Project: ST-632-1(N)Parcel: 6Code: 2922

## CORPORATE AUTHORITY AFFIDAVIT

Ted Moore, being first duly sworn upon his oath deposes and says: That he is duly elected Secretary of the Select, Inc. (Corporation Name); that the following resolution was duly adopted at a regular meeting of the Board of directors of said corporation held on 6-9-95 (Date), and has not since been revoked, to wit:

"Resolved, that the President, Ted Moore (Name and Title - President, Vice President, etc.) shall be, and he is hereby, authorized to convey to the State of Indiana real estate of this corporation, and to execute all necessary instruments in connection therewith; ~~and said conveyance shall be attested by the~~ (Name and Title - Secretary, Asst. Secretary, etc.) of this corporation, who shall affix the corporate seal thereto; that said corporation shall be bound by all instruments executed by said officers under powers herein stated."

Ted Moore  
Name (Signature) Title  
Ted Moore Secretary  
Name (Printed) Title

Before me, a Notary Public in and for said County and State personally appeared Ted Moore, Secretary of Select, Inc. who acknowledged the truth of the statements in the foregoing affidavit on this 12th day of June, 1995.

Steve Johnson  
Notary Public (Signature)  
Steve Johnson  
Notary Public (Printed Name)

My Commission Expires September 1, 1995My County of Residence is Marion

STATE OF INDIANA

COUNTY OF Henry)  
)SS:  
)Project: ST-632-1(N)Parcel: 6Code: 2922

## CORPORATE AUTHORITY AFFIDAVIT

Ted Moore, being first duly sworn upon his oath deposes and says: That he is duly elected Secretary of the Select, Inc. (Corporation Name); that the following resolution was duly adopted at a regular meeting of the Board of directors of said corporation held on 6-9-95 (Date), and has not since been revoked, to wit:

"Resolved, that the President, Ron Watkins (Name and Title - President, Vice President, etc.) shall be, and he is hereby, authorized to convey to the State of Indiana real estate of this corporation, and to execute all necessary instruments in connection therewith; and said conveyance shall be attested by the Secretary, Ted Moore (Name and Title - Secretary, Asst. Secretary, etc.) of this corporation, who shall affix the corporate seal thereto; that said corporation shall be bound by all instruments executed by said officers under powers herein stated."

Ted Moore  
Name (Signature) Title

Ted Moore Secretary  
Name (Printed) Title

Before me, a Notary Public in and for said County and State personally appeared Ted Moore,  
Secretary of Select, Inc. who acknowledged the truth of the statements in the foregoing affidavit on this  
12th day of June, 1995.

Steve Johnson  
Notary Public (Signature)

Steve Johnson  
Notary Public (Printed Name)

My Commission Expires September 1, 1995

My County of Residence is Marion

STATE OF INDIANA )  
 ):  
 COUNTY OF Allen )

Project: ST-6290(1)  
 Parcel: 2  
 Code: 3130

### PARTNERSHIP AUTHORITY AFFIDAVIT

Tom Bastin, being first duly sworn upon his oath deposes and says:

That he is a General Partner of Two Guys; that pursuant to the Partnership Agreement he has full authority to manage the affairs of said Partnership and sign and execute documents on their behalf, and that his authority has not been revoked; that he is, therefore fully authorized and empowered to convey to the State of Indiana real estate of this Partnership and to execute all necessary instruments in connection therewith.

Tom Bastin  
 General Partner (Signature)

Tom Bastin  
 General Partner (Printed)

Before me, a Notary Public in and for said County and State personally appeared

Tom Bastin, who acknowledged the truth of the statements in the foregoing affidavit on this 3rd day of December 19 95.

Greg Moore  
 Notary Public (Signature)

Greg Moore  
 Notary Public (Printed Name)

My Commission Expires

November 8, 1996



STATE OF INDIANA )  
COUNTY OF Hamilton )SS:

Project: IR-069-3(2)  
Parcel: 142  
Code: 3190

# LIMITED LIABILITY COMPANY MANAGER AUTHORITY AFFIDAVIT

Pat Patrick, being first duly sworn upon his oath deposes and says;

That he is a Manager of Third Group; that he has full authority to manage the affairs of said limited liability company and sign and execute documents on their behalf, and that his authority has not been revoked; that he is, therefore, fully authorized and empowered to convey to the State of Indiana real estate of this limited liability company and to execute all necessary instruments in connection therewith.

Pat Patrick  
Manager (Signature)

Pat Patrick  
Manager (Printed)

Before me, a Notary Public in and for said county and State personally appeared Pat  
Patrick, who acknowledged the truth of the statements in the foregoing affidavit  
on this 8th day of July, 19 95.

Don Renner  
Notary Public (Signature)

Don Renner  
Notary Public (Printed)

My Commission expires January 7, 1996

My County of Residence is Hamilton

STATE OF INDIANA

COUNTY OF Boone) )  
SS: )

Project:

Parcel:

Code:

ST-6441(2)63131

## PRESIDENT'S AUTHORITY AFFIDAVIT

Gene Smith, being first duly sworn,  
deposes and says:

That he is the president of Smith Brothers, Co. and  
doing business under the name of Smith Brothers, Co.;  
that he has full authority to manage the affairs of said business and sign and execute  
documents on its behalf, and that his authority has not been revoked; that he is fully  
authorized and empowered to convey to the State of Indiana real estate owned by said  
business and to execute all necessary instruments in connection therewith.

Smith Brothers, Co.

(Name of Business)

BY:

Gene Smith  
President Gene Smith

*Before me, a Notary Public in and for said County and State personally appeared*

Gene Smith, who acknowledged the truth of the  
statements in the foregoing affidavit on this 18th day of July,  
1995.

Kevan L. McClure  
Notary Public (Signature)

Kevan L. McClure  
Notary Public (Printed)

My Commission expires 1-7-96

My County of Residence is Marion

STATE OF I N D I A N A	)	Project:	IM-9390(C)
	)SS:	Parcel:	6
COUNTY OF <u>Allen</u>	)	Code:	2832

### SOLE PROPRIETOR AFFIDAVIT

Reggie Watson, being first duly sworn,  
deposes and says:

That he is the sole proprietor of and doing business under the name of

Reggie's Signs; that he has full  
authority to manage the affairs of said business and sign and execute documents on its  
behalf, and that his authority has not been revoked; that he is fully authorized and  
empowered to convey to the State of Indiana real estate owned by said business and to  
execute all necessary instruments in connection therewith.

Reggie Watson  
Owner (Name of Business)  
Reggie Watson

Before me, a Notary Public in and for said County and State personally appeared  
Reggie Watson, who acknowledged the truth of the  
statements in the foregoing affidavit on this 9th day of July,  
19 95.

Don Rooney  
Notary Public (Signature)

Don Rooney  
Notary Public (Printed)

My Commission expires September 9, 1995

My County of Residence is Marion

STATE OF INDIANA )

COUNTY OF Marion )

)SS:

INDIANA DEPARTMENT OF TRANSPORTATION

Project: ST-234-5 (6)Parcel: 2Code: 2345

## ADVERSE POSSESSION AFFIDAVIT

I (We), John H. Doe and Mary Jane Doe  
 hereinafter referred to as "Affiant" ("Affiants"), depose and say that ~~I~~ (we) acquired title to the following described  
 real estate located in Marion County, Indiana to wit:

*See Exhibit A*

That said Affiant (Affiants) went into possession of the above described real estate on June 6,  
 19 78, including:

*See Exhibit B*

That since said acquisition the Affiant (Affiants) ~~has~~ (have) been in actual, visible, open, hostile,  
 continuous, notorious, peaceable, exclusive and adverse possession of the above described property to the date of  
 this affidavit, exercising every act of dominion and proprietorship; that their title thereto has never been questioned;  
 that through said period of time they have satisfied their obligation concerning all taxes levied and imposed upon  
 said real estate except those which are now currently due.

This affidavit is made for the purpose of establishing the undersigned's sole claim to the fee title to the real  
 estate described above.

Further Affiant (Affiants) sayeth not.

John H. Doe  
 Affiant Signature  
 John H. Doe

Mary Jane Doe  
 Affiant Signature  
 Mary Jane Doe

\_\_\_\_\_  
 Affiant Signature

Before me, a Notary Public in and for said County and State personally appeared John H. Doe  
 and Mary Jane Doe, who acknowledged the truth of the statement  
 in the foregoing affidavit this 9th day of May, 19 95.

Bob Smith  
 Notary Public (Signature)

Bob Smith  
 Notary Public (Printed Name)  
 Bob Smith

My Commission Expires January 6, 1996

My County of Residence is Marion

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF Hendricks )

Project: F-194-3(5)  
 Parcel: 61  
 Code: 2495

## AFFIDAVIT OF CHURCH TRUSTEES RESOLUTION

I, Sandra Hensley, being first duly sworn upon my oath, hereby depose and say that I am the Treasurer (Title) of a Church named First Church of Danville, and that I was acting as such at a Trustee meeting of said Church which was duly called and held on June 1, 19 95, and that by resolution duly adopted by said Church congregation at said Church meeting the Trustees of said Church congregation were authorized, to convey by (Warranty Deed) (~~Right of Way Grant~~) to the State of Indiana for highway purposes a parcel of land referred to in said conveyance instrument as Parcel 61, Project F-194-3(5), which is located in Hendricks County, Indiana. I further depose and say that the persons named below were duly elected and qualified as members of the Board of Trustees of the said Church on December 6, 19 94, and that such membership is to run for a period of 2 years and until their successors are duly elected and qualified, namely: Mike Skinner (Chairman):  
 (Members): Johnny Benson, P.J. Jones, Kenny Irwin

and that said persons are now serving and acting as such Trustees of the said Church.

Sandra Hensley  
 (Signature of Affiant)

Sandra Hensley, Treasurer  
 (Affiant's Printed Name)

Before me a Notary Public in and for said County and State personally appeared Sandra Hensley, who acknowledged the truth of the statements in the foregoing affidavit on 3rd day of June, 19 95.

Elio De Angelis  
 Notary Public (Signature)

Elio De Angelis  
 Notary Public (Printed Name)

My Commission expires September 9, 1996

My County of Residence is Hendricks

STATE OF INDIANA )  
 )SS:  
 COUNTY OF Jackson )

Project ST-4211(A)  
 Parcel 3  
 Code 2645

## AFFIDAVIT OF ASSOCIATION RESOLUTION

I, Linda Vaughan, being first duly sworn upon my oath, hereby depose and say that I am Secretary (Title) of an Association named Izaak Walton League, and that I was acting as such at an Officer's meeting of said Association which was duly called and held on May 13, 1995, and that by Resolution duly adopted by said Association at said Association meeting, the Officers of said Association were authorized to convey by (*Warranty Deed*) (*Right of Way Grant*) to the State of Indiana for Highway purposes a parcel of land referred to in said conveyance instrument as Parcel 3, Project ST-4211(A), which is located in Jackson County, Indiana. I further depose and say that the Officers named below were duly elected and qualified as Officers of the Association Board of Directors of said Association on 6 - 19, 1993, and that such membership is to run for a period of 2 years and until their successors are duly elected and qualified, namely:

Bob Campos, President (Chairman/President)

Lucille Shevus, Vice President/ Treasurer (Officers)

and that said Officers are now serving and acting as such Officers of the said Association.

Linda Vaughan  
 (Signature of Affiant)

Linda Vaughan, Secretary  
 (Affiant's Printed Name)

Before me a Notary Public in and for said County and State personally appeared

Linda Vaughan, who acknowledged the truth of the statements in the foregoing affidavit on this 18th day of May, 1994.

Ted Horne  
 Notary Public (Signature)

Ted Horne  
 Notary Public (Printed Name)

My Commission expires July 13, 1995

My County of Residence is Boone

Project: NH-693-0(A)  
 Parcel: 3  
 Code: 2402

## PARTIAL RELEASE OF MORTGAGE .

This is to certify that a certain mortgage executed by Paul Tracy (Mortgagor)  
 1st Bank of Ft. Wayne, now known  
 to as Summit Bank (Mortgagee), dated June 8, 1986,  
 in the sum of \$ 94,000.00 recorded in mortgage record 161, page 308  
 of the records of Allen County, Indiana, is hereby released upon the  
 following described real estate in Allen County, Indiana:

*See Attached Exhibit*

Said Mortgage remains in full force and effect as to the remainder of real estate therein described.

In witness whereof the said 1st Bank of Ft. Wayne, now known as Summit (Mortgagee) has  
 caused this partial release of mortgage to be signed by its Vice President and its seal attached thereto  
 this 3rd day of April, 19 95.

Summit Bank  
 (Mortgagee)

BY:

Robert Rahal  
 (Signature)

Robert Rahal, Vice President  
 (Printed Name and Title)

STATE OF INDIANA )  
 )SS:  
 COUNTY OF Allen )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared  
Robert Rahal, known to me to be the  
Vice President of the Summit Bank (Mortgagee)

and acknowledged the execution of the above partial release of mortgage as and for the act and deed of  
 the said Summit Bank (Mortgagee). Witness my hand and notarial seal this 3rd  
 day of April, 19 95.

Phillis R. Schley  
 Notary Public (Signature)

Phillis R. Schley  
 Notary Public (Printed)

My Commission Expires June 3, 1996

My County of Residence is Tippecanoe

This Instrument Prepared BY: (INDOT's Attorney )



Enclosure 2-19  
INDIANA DEPARTMENT OF TRANSPORTATION  
100 North Senate Avenue  
Room N755  
Indianapolis, Indiana 46204-2249  
(317) 232-5533 FAX: (317) 232-0238

EVAN BAYH, Governor  
STAN C. SMITH, Commissioner

Writer's Direct Line:  
317/232-5050

<u>1st Bank of San Francisco</u>	Project: <u>ST-3364(1)</u>
<u>3496 San Jose Boulevard</u>	Parcel: <u>2</u>
<u>San Francisco, CA 90434</u>	Code: <u>2449</u>
	County: <u>Allen</u>

Dear Sirs:

Enclosed is the check for the purchase of .821 (s.f., acres) from  
Walter and Anna Jackson, (owner(s), loan account number 43A772049).

In accordance with our agreement, please return the executed mortgage release for  
recording to:

Indiana Department of Transportation  
100 North Senate Avenue  
Government Center North, Room 955  
Indianapolis, Indiana 46204-2249

ATTENTION: K. McClure

KLM/clm



**Discharge and satisfaction of liens; requisites; recording**

Sec. 1. (a) It is lawful for:

(1) the president, vice president, cashier, secretary, treasurer, attorney in fact, or other authorized representative of a national bank, state bank, trust company, or savings bank; or

(2) the president, vice president, general manager, secretary, treasurer, attorney in fact, or other authorized representative of any other corporation doing business in Indiana; to release upon the record mortgages, judgments, and other record liens upon the payment of the debts secured by the liens.

(b) A release, when made upon the margin or face of the record of the mortgage, judgment, or other lien and attested by the recorder, clerk, or other officer having custody of the record of the lien, is a full discharge and satisfaction of the lien.

(c) The recorder of each county may require that each release, discharge, or satisfaction of a mortgage, judgment, or lien, or any partial release of any of these, be recorded on a separate written instrument. If a recorder requires the recording of each release, discharge, or satisfaction on a separate written instrument, an instrument presented for recordation in that county may not contain more than one (1) release, discharge, or satisfaction. If a recorder allows an instrument to contain more than one (1) release, discharge, or satisfaction, the fee for recording that instrument is provided in IC 36-2-7-10(b) (3).

(d) Except as provided in subsection (e), a national bank, state bank, trust company, savings bank, or other corporation may release and discharge mortgages, judgments, or other record liens by a separate written instrument signed by its:

- (1) corporate name;
- (2) president;
- (3) vice president;
- (4) cashier;
- (5) secretary;
- (6) treasurer;
- (7) attorney-in-fact; or
- (8) authorized representative.

A release under this subsection shall be recorded by the recorder, clerk, or other officer having custody of the record of the lien, with a reference on the margin of the record of the lien to the location where the release is recorded. Upon recordation, the release is a full discharge and satisfaction of the lien, or portion of the lien, as indicated in a partial release.

(e) A release by the attorney-in-fact may not be recorded until a written instrument specifically granting the attorney in fact the authority to release and discharge mortgages, judgments, or other record liens has been filed and recorded in the recorder's office of the

county where the release is to be recorded. The written instrument must be in writing and signed and acknowledged by two (2) officers of the national bank, state bank, trust company, savings bank, or other corporation.

(f) A party may revoke the written instrument filed under subsection (e) by:

(1) noting on the written instrument granting the attorney in fact the authority to release mortgages and liens that this power has been revoked; or

(2) filing and recording in the recorder's office of the county where the written instrument described in subsection (e) of this section was filed, a separate written instrument signed and acknowledged by two (2) officers of the entity revoking the attorney-in-fact's authority.

The written notice of revocation described in this subsection must be attested by the recorder of the county in which the revocation is filed. The party conferring the power described in subsection (e) is bound by an act performed before written notice revoking the authority is properly attested to and filed in the county recorder's office.

*As added by P.L.2-2002, SEC.14.*

**ENCLOSURE 2-21**

STATE OF I N D I A N A )

)SS:

COUNTY OF \_\_\_\_\_ )

Project: \_\_\_\_\_

Parcel: \_\_\_\_\_

Code: \_\_\_\_\_

**AGREEMENT OF CONVEYANCE (ACCESS RIGHTS ONLY)**

I (we) the undersigned property owner(s) hereby agree to convey to the State of Indiana property access rights as described on exhibit "A" attached hereto and made a part hereof, for the sum of \$\_\_\_\_\_, without any undue coercive action of any nature, fully aware that we are entitled to an offer based upon an appraisal.

I (we) waive such appraisal rights and do hereby execute a deed to convey the necessary property access rights for \$\_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

Before me, a Notary Public in and for said County and State personally appeared

\_\_\_\_\_, who acknowledged the truth of the statements in the foregoing affidavit on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public (Signature)

\_\_\_\_\_  
Notary Public (Printed)

My Commission expires \_\_\_\_\_

My County of Residence is \_\_\_\_\_

# STATE OF INDIANA

enclosure 2-22



INDIANAPOLIS, 46204

STATE BOARD OF TAX COMMISSIONERS

Indiana Government Center North  
317/232-3761

July 14, 1993

Mr. Norman K. Malone  
Special Property Acquisitor  
Division of Land Acquisition  
Indiana Department of Transportation  
100 North Senate Avenue, Room N955  
Indianapolis, IN 46204-2219

RE: Effect of real estate acquisition on property taxes

Dear Mr. Malone:

At the present time, IC 8-23-7-31 is the statute that governs the taxation of property acquired by the Department of Transportation. IC 8-23-7-31 provides in pertinent part:

(b) Real property and interests in real property acquired for permanent highway purposes are exempt from taxation from the date of acquisition, provided that all taxes, interest, and penalties recorded on the property tax duplicates have been paid. Where real property or interests in real property are acquired after the assessment date of any year but before December 31, the taxes on the property in the ensuing year are not a lien on the property and shall be removed from the tax duplicates by the county auditor.  
(Emphasis Added)

The State Board Of Tax Commissioners ("Board") interprets this provision to mean any property which has an acquisition date after March 1 but before December 31 of any year shall have the property taxes for the ensuing year removed from the duplicate by the county auditor. The date of acquisition is considered to be the date the deed is signed.

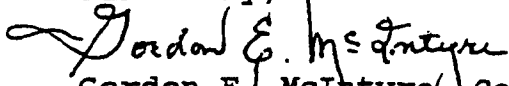
Subsequent to reviewing the statute, the only time period not covered is an acquisition date that falls between December 31 and March 1. Any properties acquired during this period would have the current taxes paid with no ensuing year's taxes due. The property would be owned by the State on or before the March 1 assessment date, therefore the property would not be assessable.

Mr. Norman K. Malone  
July 13, 1993  
Page Two

enclosure 2-22

If you require any additional information, please contact me.

Sincerely,

A handwritten signature in cursive script, reading "Gordon E. McIntyre". The signature is written in dark ink and is positioned to the left of the printed name.

Gordon E. McIntyre, Commissioner  
State Board of Tax Commissioners

GEM/dam

# STATE OF INDIANA

enclosure 2-22



STATE BOARD OF TAX COMMISSIONERS

INDIANAPOLIS, 46204

150 W. Market, Suite 710  
317/232-3761

## M E M O R A N D U M

TO: ALL COUNTY AUDITORS

FROM: STATE BOARD OF TAX COMMISSIONERS *gem*

SUBJECT: LAND ACQUISITION BY THE INDIANA DEPARTMENT  
OF TRANSPORTATION

DATE: JULY, 1993

Recently the Indiana Department of Transportation (INDOT) contacted us regarding land acquired for permanent highway purposes. Apparently through possibly some misunderstanding INDOT and/or the previous owner are being billed for taxes which fall under the provisions of IC 8-23-7-31.

We have sent a letter (copy attached) of our understanding of this particular provision to INDOT. They concur with our understanding.

While each county may not currently be affected by INDOT land acquisition, we felt it would be beneficial for everyone to receive this information.

If there are any questions regarding this issue, please advise.

WAIVER OF REAL ESTATE TAXESDate July 19, 1993

## MEMORANDUM FOR THE PARCEL FILE

Project:	<u>F-4211(A)</u>
Parcel:	<u></u>
Road:	<u>US 52</u>
County:	<u>Boone</u>
Code:	<u>3211</u>

The consideration for this parcel is \$ 495.00, all of which is for -----  
 ----- (of which \$ 250.00 is for land and improvements and \$ 245.00  
 is for damages consisting of cost-to-cure a flag pole

~~The appraiser estimated the value of the remaining property at \$-----.~~ (The appraiser did not  
 estimate the value of the remaining property; however, it is an improved with a residence.)

The Division of Land Acquisition waives the requirement that a release be obtained for the real estate  
taxes in the amount of \$ 1,265.00

REMARKS: The delinquent real estate taxes for this property exceed the amount of the  
offer. The owners are not able to pay these taxes at this time and the Auditor is not  
willing to issue a separate tax key number until the transfer occurs. The property is not  
on a tax sale list and the residue should ensure payment of the taxes.

In light of the foregoing, it is recommended that the policy of requiring payment of real estate  
taxes prior to securing a parcel be waived in this instance.

Recommend Approval:

APPROVED:

Joan Garard  
 Acquisition Specialist  
 Joan Garard

Jay D. Marks  
 Jay D. Marks, Chief  
 Division of Land Acquisition

Kevan L. McClure  
 Kevan L. McClure, Manager  
 Buying Section

KLM/clm

## CHAPTER THREE

### UNDERSTANDING THE APPRAISAL

It is the buyer's responsibility to read and understand the appraisal. The goal of this review is to comprehend the method and theory used to arrive at the final value. Your ability to explain how the offer amount was arrived at is critical to how the owner will react. Explaining the appraisal process will instill the owner with confidence in the offer and in your abilities.

**This does not mean that you should divulge specific values, a breakdown of the offer, or allow the owner to review the appraisal. IC 8-23-2-6 (C)(2) classifies the appraisal as a confidential document.**

The appraisal will provide you with the owners address and phone number, contract buyer information, and other interests which were contacted.

You should be able to explain, in layman's terms the appraisal process. The appraiser will review the plans, the taking, the subject property and its structures to identify the appraisal problem analysis. The appraiser's goal is to estimate the fair market value of the area to be acquired. While an eminent domain acquisition does not have a willing seller, the value is established on the assumption of a willing seller so as not to penalize the taxpayer by paying prices above the market. He/she will determine what he/she considers the highest and best use of the property to be in both the before and after-taking situations. He/she will appraise the property using a before and after method (assuming a partial taking), applying the most applicable approaches to the appraisal problem; ie, market, cost and income. He/she will establish a separate amount due for land and damages.

The following is a list of the most common terminology used to explain the appraisal process. While an understanding of these basic definitions is necessary, the buyer is responsible for a more detailed and working knowledge of the appraisal process and the different approaches to value. This chapter is not intended to be an appraising handbook. The details and applicability of the cost, income, and market approaches cannot be addressed in this manual.

**Fair market value** - the amount in cash for which the property would be sold by a knowledgeable owner, willing but not obligated to sell, to a knowledgeable purchaser who desired, but is not obligated, to buy.

**Highest and best use** - the highest and most profitable likely use for which the property is adaptable and needed or likely to be needed in the near future.

**Before and after method** - an appraisal method for partial takings in which just compensation is arrived at by first estimating the market value of the entire unit before the taking and then subtracting from it the market value of what remains in the ownership after the taking. The difference is compensation including both value of land taken and any diminution of value in the remainder.

**Comparable sales** - arm's length transactions in land in the vicinity of, and comparable to, the subject land, reasonably near the time of the taking.

**Market approach** - an appraisal technique based upon the prices paid in actual market transactions with adjustments made for comparability, time of sale, and market factors.

**Income approach** - an appraisal technique in which the anticipated net income is processed to indicate the capital amount of the investment which produces the net income. The only income properly considered under this approach is the income generated by the real estate (rental income) and not the income generated from a business conducted on the property.

**Cost approach** - a method of valuation derived by estimating the replacement cost of the improvement; deducting therefrom the estimated depreciation; and then adding the value of the land, as estimated by the market approach.

**Landlocked** - a parcel of land without access to any road resulting from INDOT's partial taking. Usually damaged at 95 percent of value although circumstances may warrant lesser damage (see excess land/uneconomic remnant).

**Severance damage** - the diminution in value of the remainder, directly caused by the partial taking or by the proposed use of the partial taking.

**Setback damages** - a form of severance damage, applied to the value of a dwelling only, resulting from a taking which reduces the distance between the right of way and a dwelling below a distance which is typical for the area.

**Cost to cure** - the cost necessary to restore utility to a land improvement which is integral to the highest and best use of the property.

**Angulation damages** - The loss in value to an agricultural residue which was shaped by 90 degree corners before the taking and will have angled property lines with acute or obtuse corners after the taking, resulting in an uneconomic shape for agricultural purposes (point rows). The damage is calculated to the loss in value of the residue area which will be lost in recreating the 90 degree corner.

**Temporary easement** - Temporary easement values are calculated based on the fair market value of the easement area, multiplied by the current accepted rate of return ( say 10%) for a three year use period (**although they are effective for an indefinite period, until released**), multiplied times the present worth factor for three yrs./10 percent ( 2.487). The present worth is the amount necessary to be invested at a specified rate of return to equal the amount of compensation due at the end of the specified term. Example - 1.45 acres (area) x \$2,500 (market value/acre) = \$3,625 x 10% (current rate of return) = \$362.50 x 2.487 (present worth factor for 3 yrs.@ 10%) = \$901.54 (say) \$900.00.

**Excess land/ uneconomic remnant**- land which has very limited use or value after the taking and which INDOT incorporates into its offer to purchase.

Excess land is determined by INDOT's right of way engineers on the assumption that the owner will not want the residue. The area is incorporated into the taking description as "excess land" with a retention value established in the appraisal. **The buyer will explain to the owner that he may retain the excess land, at his option, for the amount noted on the reviewers cover page.** If the owner elects to retain the excess land, the parcel will be returned to Engineering to remove the area from the description, and be routed through Appraising to reduce the offer. A revised offer, with revised deed, will then be made to the owner.

An uneconomic remnant is an area of residue which is not developed as a part of the taking but is severely damaged in the appraisal. **As a rule of thumb, the buyer will offer to purchase an uneconomic remnant if the residue is damaged at least 70 percent. However, circumstances may justify the purchase of a residue with less than 70 percent damage with approval of the buying manager.**



Please note that **contaminated or potentially contaminated properties** will be treated differently than the above standard practices. **The buyer will offer to purchase the excess land/uneconomic remnant upon proof from the owner that the property has been cleaned and approved by IDEM or that the property is not contaminated to the extent that IDEM's standards requires remediation action.**

Be aware that a change in highest and best use to a commercial building, while not necessarily creating an uneconomic remnant, could entitle the occupant to relocation benefits. A Relocation Daily Notice should be prepared in these instances to allow the Relocation Section to determine the occupants' eligibility (see Chapter 4 (11) ).

The Buyers review of the appraisal should result in a thorough understanding of these issues and the ability to explain for what we are paying and how we arrived at these values.

### 3 (1)

#### **Review Sheet**

The appraisal is evaluated by a Review Appraiser for approval of the theory, methods and calculations. The review may increase or decrease the appraiser's estimate of value. The appraisal review sheet will show the approved amount to be offered, which may be different than the appraised amount. If the reviewer has changed the value from the original appraisal, read his review comments to see what the new value represents. Be sure you recognize any changes the reviewer made in order to avoid making an offer for the incorrect amount. It will also note the damaged value of any excess land which is being purchased. This excess land value breakout is for your information to provide to the owner for retention consideration. The review sheet will also indicate the area to be acquired and whether the appraiser considered there to be any environmental hazards on the property.

The buyer should verify that the appraisal belongs with this parcel packet and that the review sheet is attached to the correct appraisal. A parcel may be handled by several persons before it reaches you and the contents may have been misplaced in the wrong packet.

Verify that the appraisal is for the same area as your deed covers.

### 3 (2)

#### **Statement of Basis for Just Compensation**

The Statement of Just Compensation is a breakout of the total appraised values of the land and land improvements, and damages included in the offer. It will note the type of damages and any improvements acquired. It is important that the owner exactly what items are being acquired. Therefore, the buyer should review the statement for accuracy before including it in the offer package to be provided to the owner.

### 3 (3)

#### **Errors and Omissions**

The buyer should discuss any mathematical errors, improvements overlooked or appraisal methodology concerns with his supervisor. If the supervisor feels the issue warrants further investigation he will speak to the review appraiser. The reviewer will be able to explain whether there is in fact an error or whether there is additional information of which you are not aware. If the appraisal does contain an error, the buyer will then return the parcel to the Appraising Section.

### 3 (4)

#### **Parcels without Appraisals**

You may receive a parcel which does not contain an appraisal. The most common type of parcel without an appraisal will be an Access Rights Only acquisition. See Chapter 8 (15) for procedures of Access Rights Only parcels.

Federal regulations provide for the buyer to also make a "waiver valuation" of value for simple acquisitions which do not exceed \$10,000. INDOT limits the preparation of these market estimates to the more experienced project supervisor level buyers. The buyer will review the plans, title and comparable sales docket. He will perform a site inspection to verify that the acquisition is simple and will not create any severance damages, and he will determine the highest and best use of the property. The buyer will complete the market estimate form, cite any necessary cost to cure estimates, and submit it to the Acquisition Administrator for review and preparation of a Statement of Basis for Just Compensation.

### 3 (5)

#### **Signs**

**A sign on a property will be appraised as a land improvement or cost to cure item as a part of the parcel if it is owned by the owner of the property. If the sign is owned by another party and located on the property under a lease agreement, such as a billboard, it will be appraised separately in a supplemental parcel.**

The sign appraisal for a billboard will include a salvage value for the owner's consideration whether to remove it from the right of way or to sell it to the State. ( See Chapters 5(5),retentions, and 8(12) and (13), for retention procedures).

## **CHAPTER FOUR**

### **PREPARATION**

#### **4 (1)**

When you are assigned a group of parcels for acquisition, check your target date and identify those to be contacted first. Give priority to parcels where a home is in the take. Buildings have always had priority status but special emphasis is now being placed on them due to asbestos inspection/demolition requirements which create delays in the right of way clearance phase.

- Priorities are:
1. Relocations (Displacements)
  2. Buildings without relocation and bridge parcels
  3. Complex/high value (probable owner's appraisal)
  4. Corporations (inherent delays with bureaucracy) and out-of-state owners

These parcels must be negotiated early and bought or condemned promptly. The condemnation process can add at least one year to the land acquisition phase of the project.

You should strive to complete your parcels by the target date and as soon as possible before it. These dates are sometimes advanced. Your supervisor will alert you when this occurs and it is your responsibility to finish earlier. No regulatory time frame may ever be jeopardized.

Prior to contacting the owners, you should examine the contents of the parcel packet to see that it contains the following:

1. A copy of conveyance instrument/legal description & land plat;
2. Title and Encumbrance Report;
3. Approved appraisal or estimate of value, with review;
4. Statement of the Basis for Just Compensation form;

You should review the plans (i.e., plan and profile sheets, detail sheets and typical cross-sections) and make a site inspection in order to familiarize yourself with the project and taking, verifying that no changes have been made since the appraisal was completed. You should note the points of access to the property and compare them to the plans to verify that no access points are being closed or relocated. You should note, (1) whether any items have been omitted, (2) whether any items should not have been included, and (3) whether any items were included, but now are missing from the property.

Review the legal description of the taking. While you may not be capable of determining if the description closes, you will be able to note an obviously incorrect bearing or typographical error. Trace the description around the taking using the plat and plan sheet. Compare the appraisal and parcel index plan sheet to the description to verify that they cover the same area and type of interest to be acquired. Consult with your supervisor concerning any discrepancies in the description or appraised land improvements. Review the title report as described in Chapter Two. Review the "correspondence" file for the project in the Records Section file room. Note the public hearings report and any comments or letters from property owners. This will forewarn you of any potential problems or owners concerns which have not been addressed. The

scope of the Project and Engineers report will orient you to the nature of the work to be accomplished. Pay particular attention to the environmental reports in the file; the Initial Site Assessment, Preliminary Site Investigation, and Detailed Site Investigation. (See Chapter 7, Environmental Review).

The law identifies the owner as the person(s) being responsible for paying the real estate taxes and the person(s) in whose name the title to the property is shown in the records of the county recorder's office. We shall expand this to include all life estate interests, deeded mineral interests, contract buyers (whether or not the contract is recorded), lessees who own improvements to be acquired and, in certain isolated cases, a long-term lessee. Prior to including a long-term lessee on an offer letter, solely on the basis of the term of his lease, the manager of the Buying Section *must* be consulted.

The buyer will visit the county auditor, treasurer and recorder's offices to verify the ownership as shown in the title report, that no sell offs have occurred and that the real estate taxes are paid current. If the subject property has been sold you will obtain a copy of the new deed, new mortgage and the release of the old mortgage to update the title report. You will submit a "Notice; Land Acquisition Name Change" (*see chapter 2, enclosure #1*) to the Buying Section clerk for entry into INDOT's database. Place a copy of the name change form in the parcel. If a portion of the property has been sold you will plat the description of the sale in order to determine if it is within the area of taking.

**A thorough review of the parcel, plans and site will enable you to confidently address the owners concerns and questions. Failure to adequately study the acquisition will certainly cost you credibility with the owner and possibly lead to errors which may be costly.**

Having familiarized yourself with the parcel, complete the Parcel Fact Sheet (*see enclosure #1*). This will provide you a ready reference source when meeting with the owner or your supervisor. The fact sheet is a condensed version of the critical information in the parcel. While you should be very familiar with the acquisition, there are still many details, especially with complex takings, which may escape you at the moment an owner asks. The fact sheet avoids having to thumb through the appraisal in search of an answer, appearing uninformed or unprepared. The fact sheet should be kept separate from the parcel. If the parcel is sent back for a revision the fact sheet will allow you to competently discuss the parcel with the owner, your supervisor or any other party who may contact you. The buyer will contact all ownership interests, explaining that an acquisition is pending and asking for an appointment at the owner's convenience to personally present the offer. "The owner's convenience" will be construed to include mornings and evenings beyond normal office hours. It will not, however, include weekends. You should take this opportunity to verify the accuracy of the title report. You should verify the exact name and spelling of the owner to assure that the offer will be correct and legal. Occasionally the caption deed will misspell the owner's name, or a wife may be deceased and the husband has remarried. The offer presentation can be embarrassing if you include the owner's deceased first wife in the offer. You should also verify the exact ownership interests: i.e., that the contract sale is still in effect, the mortgagee hasn't assigned the mortgage, merged or changed names, the life estate holder is still alive, etc.

**The offer package shall contain the following:**

1. Brochure, "Acquisition; Acquiring Real Property For Federal and Federal-Aid Programs and Projects"
2. Land plat;
3. Uniform Land or Easement Acquisition Offer with legal description attached;
4. Statement of Basis for Just Compensation.
5. Owner's Private Appraisal Letter;
6. Buyer's report

**4(2)**

**The Offer Letter**

Attached as *enclosure #2* is a copy of the Firm Offer Letter as mandated by IC 32-11-1, Section 2.1(d). The following general policies apply:

The offer letter is to be filled out completely and in triplicate;

1. Give the original to the owner,
2. Send one copy to Records,
3. Place one copy in the parcel.
4. Attach a copy of the legal description to each copy of the offer letter.
5. Offers are to be made within three weeks of assignment.

Be sure you read and know this offer letter and what it contains. There are various items which must be lined out and other items which must be filled in. Be sure that this is done *accurately*. The attached example has been filled in and therefore a great amount of detail will not be given here.

It is the buyer's responsibility to explain the offer letter in layman's terms. You should review the letter noting key points of information, such as the time frames, the owner's options and the steps involved in purchasing or condemning. Practice explaining the offer letter until you have a presentation which flows in your natural speech patterns and words, and which doesn't sound "canned". Remember, the objective is to decipher the "legalese" and provide information, not to read the offer back to them. They can read it for themselves. Having a standard presentation will allow you to stay focused during the inevitable distractions which will occur. When the owners harangue about the offer, (interrupt with questions, reprimand their children or eat dinner) it is easy to lose your place and either skip over critical information or repeat yourself. A thorough knowledge of the offer and a comfortable, standard presentation will allow you to pick up your train of thought after any interruption.

**The offer letter must be addressed to all ownership interests.** This will include the names and addresses of contract buyers, certain lessees and others as indicated previously. Also note that on Page 3 of the offer letter, space is provided for the name, county, and date the offer is presented to each owner. Remember to enter the date the offer was made to each party. The offer is not legally valid until all ownership interests have received it.

Attach the conveyance instrument or legal description to the offer letter. The offer letter now represents what amount is being offered, the conditions of sale, and what is to be purchased. Prepare three copies of the offer. One copy is provided to the owner, one remains in the parcel and the third is submitted to the Buying Section Clerk for database entry and kept in the records file.

#### 4 (3)

##### **Buyer's Report**

The Buyer's Report serves as a historical narrative of the negotiation process. **As the only record of your interaction with owners, it is critical that all pertinent information, conversations and authorizations be made a written part of the parcel through the Buyers Reports.** This will help to resolve any future questions or disagreements. This is *your protection* against unfounded claims of misrepresentation by the property owner. It also provides the owner with a synopsis of your discussion which he can review at a later date to avoid misunderstandings. The report must be as detailed and accurate as possible without containing irrelevant information.

*An entry to the report will be prepared for all owner contacts, or other contacts of significance, with a copy to be provided to the owner. The report should be initialed by the owner on personal visits in order to document the nature of the conversation. If the owner refuses to initial, you will still provide him/her with a copy and note his/her refusal on the report. A copy of the report will be maintained in the records parcel file and the original will remain in the parcel.*

Reports accompanying Offer Letters **must** contain the following information:

1. Specific verification of the title report. For example, "The owners verified that the title and liens are as shown in the title report": or "The owner verified he holds title as John H. Doe with a mortgage to Indiana National Bank, n/k/a NBD", are acceptable. However, "I checked the title with the owners" is unacceptable, as it is vague and does not confirm the accuracy of the title report.

2. Scope: A brief description of the nature of the project and the specific impact it will have on the subject property. "I showed the plans and explained the project" is **not** acceptable.

A brief general description of the nature of the project; for example, "I showed the plans and explained that the project will replace the bridge and approaches over Wildcat Creek on SR 28. I noted that the bridge will have two 12-foot lanes and 10-foot shoulders with guard rail. In addition, I noted that the approaches will be two 12-foot lanes with 11-foot shoulders, three-foot side ditches with guard rail from the bridge to STA 124+23 Lt. Also, I noted the approach on the north side along their frontage will be raised 1 - 3 feet and their drive will be relocated to STA 124+45 Lt., 16 feet wide with a bituminous surface."

**All changes to the road, topography or land improvements as they effect a property must be specified in the report; i.e., changes of centerline or elevation, addition of guard rail, shoulders or ditches, specification of drive location, size and surface.**

3. Necessity of Take: A brief explanation of the need for the property. For example, "I explained that INDOT needs to acquire the .306 acres of frontage for the addition of the left shoulder and to provide room for a 3:1 slope from the new road elevation to the new right of way line."

4. Effects on the residue: an explanation of how the remaining property will be affected by the acquisition. Examples include setback damages, drive closings, drive construction details.

5. Terms: an explanation of the offer amount and what is being purchased and compensated for. All cost to cure items **must** be specified. For example, "I explained that the \$3,400 offer is for .306 acres with trees and includes \$200 to relocate the light pole."

6. A statement that the owner may obtain a private appraisal at his option and expense.

7. A statement that the owners may retain buildings or fixtures with an adjustment to the offer if they wish. (If applicable.)

8. A recap of your conversation containing the owner's concerns, your responses, your expectations of the owner, a list of your responsibilities and the time frame in which you expect these to be accomplished. For example, "The owners feel the offer is low and their residue is worthless. I explained that a private appraisal can be submitted for review at the owner's option and expense. I reminded them that the severance damages recognized the loss in value to the residue. I also explained that I will see if INDOT will purchase the residue as an uneconomic remnant at the owners' request and let them know next week. The owners will obtain a private appraisal to be submitted within one month or sign a right of entry to delay negotiations further."

Reports accompanying secured instruments must contain the following:

1. An explanation of the time frame for obtaining clear title, including obtaining partial mortgage releases, and check processing, making note that the 90 days doesn't begin until clear title is secured.

2. A recap of the terms of the transaction if the parcel was complicated and negotiations involved changes to the plans, retentions, administrative settlements or any other items which were negotiated since the offer was made. This summary will clarify the terms of the acquisition for both parties. (If applicable.)

3. A statement that you reviewed the owner's responsibilities regarding major retentions and gave them a copy of the retention agreement (if applicable).

4. A statement explaining the owner's responsibilities for real estate taxes.

5. A statement of waiver if the owner waives the 25-day consideration period, his right to request the purchase of an uneconomic remnant, or his right to retentions.

*(See enclosure #3, Buyer's Report.)*

A Buyer's Log may be used to document telephone conversations or other events which are not personal visits. The log will note the date, time, person contacted and a summary of the conversation just as would be noted in a buyer's report. The log will avoid the tedium of completing the buyer's report heading for each telephone contact while maintaining the historical reference of the chain of negotiations.

#### 4 (4)

**"Acquisition: Acquiring Real Property For Federal And Federal-Aid Programs And Projects" brochure, (see enclosure #4.)**

#### 4 (5)

##### **Land Plat**

The land plat is part of the legal description and will be prepared by the Engineering Section and will be in the R/E Engineering packet in the parcel when you receive it. The plat will show the area of take in relation to the property boundaries. Please note that temporary easement only parcels may not have a plat prepared.

#### 4 (6)

##### **Owner's Private Appraisal Letter**

*(See enclosure #6.)*

4 (7)

**Statement of Basis for Just Compensation**

This document is prepared by the Appraisal Section and will be in the parcel when you receive it. It is the only break out of the appraised amounts for land/improvements and damages that you may disclose to the owner. (See enclosure #7.)

4 (8)

**Plans**

You will not provide a set of the plans to the owner but they still must be prepared for presentation. Upon request you can give him the sheets which contain his property. You should color the area of taking on the plan sheets which depict the owner's property. This will help the owner recognize the acquisition among the multiple lines which are on a plan sheet. You might also highlight any other information which you intend to point out to the owner. This would include side ditch/guard rail information, elevations, or a relocated center line.

4 (9)

**Publication of Offer**

Occasionally the owner will refuse to meet with you or to accept the offer through a certified mailing. You may also encounter a parcel which has an owner whom you cannot locate. Under these circumstances the Indiana Code allows for the offer to be published in a newspaper either where the property is located or where the owner was last known to reside. Before publishing an offer, the buyer should make every effort to convince the reluctant owner that it is in his best interest to allow you to explain the offer and acquisition procedures OR to contact the neighbors, voter registration, the Post Office and public utility companies in an attempt to locate the owner. You will mail the offer to the same address as is listed on the tax roles prior to publishing an offer. You might also contact local law enforcement offices to see if the owner is currently serving a prison sentence.

The eminent domain procedures, as set out in IC 32-24-1-5, also establish the requirements for advertising an offer.

**NOTICE**

TO: \_\_\_\_\_ (owner(s)), \_\_\_\_\_ (condemnor) needs your land for a \_\_\_\_\_ (description of the project), and will need to acquire the following from you: \_\_\_\_\_ (general description of land or interest to be acquired). We have made you a formal offer for this land (or interest) which is now on file in the Clerk's Office in the \_\_\_\_\_ County Court House. Please pick up the offer. If you do not respond to this notice, or accept the offer by \_\_\_\_\_ (a date 30 days from the first date of publication) 20\_\_\_\_, we shall file a suit to condemn the land or interest therein.

\_\_\_\_\_  
Condemnor

The condemnor shall file the offer with the clerk of the circuit court with a supporting affidavit that diligent search has been made and that the owner can not be found. The notice shall be published twice; one (1) immediately, and a subsequent publication at least seven (7) days and not more than twenty-one (21) days after the prior publication.

(See enclosure #8 for a copy of this notice.) This notice shall be delivered to the newspaper(s) by the buyer. Leave a claim voucher, W-9, and direct deposit form with the newspaper, for direct billing purposes, to be returned with the publisher's claim (certified proof of publication). The publisher's claim will be placed in the parcel file, behind the offer letter, to document that an



offer was made. Names and addresses of local newspapers can be obtained from the supervisor, Records Unit. Verify that the newspaper will direct-bill INDOT for the costs of publication. The buyer will complete the appropriate affidavit, whether the owner refused the offer or was not located, (*see enclosures #9 & #10*) and place it in the file to document why the offer was published.

Follow the same distribution of the offer letter copies as cited in Section 4(2), The Offer Letter".

The buyer will leave a complete offer package with the county clerk. The published notice will direct the property owner to the clerk's office to pick up the offer. If you have not had a response from the owner 30 days after the last publication, you will retrieve the package and place it in the parcel as documentation of a failure to respond. The parcel will then be processed for condemnation or if the take is minor and the owner unlocated, it may be acquired by administrative decision.

#### 4 (10)

##### **Offers By Mail**

It is the option of the Buying Section that the initial offer may be extended to the owner of record by mail. *Offers by Mail should not be considered where an owner hardship is known or anticipated -- i.e., old age, language barrier, etc., or when the acquisition entails displacement of persons or personalty, or any other unusual circumstances that indicate an offer in person is in the best interest of the State or the owner.*

The buyer should follow all the same preparatory procedures as outlined earlier in this chapter. Prepare an Offer by Mail package and mail it to the owner of record.

##### **The offer by mail package shall contain the following:**

1. Introduction letter;
2. Brochure, "Acquisition: Acquiring Real Property For Federal And Federal-Aid Programs And Projects;"
3. Plan sheet highlighting subject property and required right of way;
4. Uniform Land or Easement Acquisition Offer with legal description/land plat attached;
5. Statement of Basis for Just Compensation.
6. Owner's Private Appraisal Letter;

The offer by mail package should be carefully prepared and assembled in a sequence which is intended to guide the owner logically through the acquisition process, explaining the taking, presenting the offer, and defining the owner's and the State's rights and options in accordance with applicable laws.

##### **The Introduction Letter**

The most important document in the Offer by Mail package is the introduction letter to the owner. (*See enclosure #11*). This letter will include project identification information e.g., project, parcel, code, etc.; also, an introductory paragraph describing the purpose of the project. Subsequent paragraphs will include aspects of SNET (Scope of the project, Necessity of take, Effects on the residue, Terms of the acquisition), information pertaining to the acquisition and its effect on the owner's property; location of access, elevation of road, reduction in set-back,

drainage, etc. You will then explain what the offer represents; area of acquisition, temporary right-of-way, land improvements, cost-to-cure, damages, etc. You must be specific as to what improvements are acquired and what the allowance for damages represents. The letter should include an explanation of the acquisition process to follow, with a notice that you will contact them within 10 days of receipt. However, if the owner wishes to contact the buyer before that time, he should be encouraged to do so with the introduction letter providing the name and telephone number of the buyer.

### **Mailing the Offer**

**The Offer by Mail package is to be mailed Certified with Return Receipt and the physical mailing of the offer must coincide with the date of the introduction letter.**

Documentation and evidence that the offer was mailed will be the Returned Receipt (Green Card) along with the file copy of the introduction letter. The Green Card will be attached to page 3 of the Offer Letter to be included in the parcel file.

### **Preparation and Distribution of Forms**

The same procedures are followed as cited in Section 4(2), "The Offer Letter".

### **Owner Contact**

The buyer should arrange an appointment for a personal meeting to further address the acquisition during the follow-up telephone contact. If no decision is received with respect to accepting or rejecting the offer within 10 - 20 days after the personal contact (and provided the buyer has answered all the owner's pertinent questions and the 25 day statutory period has expired), the buyer should contact the owner and request a decision.

*It should be stressed at this point that this procedure describes minimally acceptable negotiations and in no way reduces the obligation of the buyer to provide whatever additional contacts and service are necessary for each owner.*

## **4 (11)**

### **Daily Notice to Relocation (see enclosure #12)**

Having made the offer or initiated the offer proceedings with at least one of the interests, you will prepare the Daily Notice to Relocation, if applicable, and submit the original and two copies to the Buying Section clerk for database entry and distribution. Place one copy in the parcel file. This form will be used whenever the parcel involves the acquisition of an occupied residence, personal property in a building or stored within the area of take, or when the appraisal changes the after take highest and best use of a building. The Buyer should not attempt to explain relocation benefits. The Relocation Unit will determine whether the occupant is eligible for relocation benefits resulting from the change of use. (See Chapter 10, Relocation benefits).

The Daily Notice is to be submitted immediately upon initiating negotiations. A thorough explanation of the taking, ownership and occupants, addresses and phone numbers will be included.

ENCLOSURE 4-1  
PARCEL FACT SHEET

Buyer: Noel Project: ST 4264(1) Code: 2632 Parcel: 4  
Type: Bridge ☒ Road ☐ Road Relo ☐ Intersect ☐  
Owner: HOWARD BURNS & DOLORES V. BURNS  
Title: (if applies) H & W Phone: 812-632-9058  
Address: RD 4, Box 268, VINNENES LAKE RD to CR 400E  
40043 1st WHITE HOUSE LEFT  
Other, Name: WILLIAM REYNOLDS & VIVIAN A. REYNOLDS  
Interest: CONTRACT BUYER Phone: 812-632-4157  
Address: SUBJECT SITE - 4104 LAKE RD, VINNENES 4004  
Mortgagee: 1st NATIONAL BANK  
Officer/Contact: BOB MITCHELL V.P. Phone: 812-729-4620  
Address: 1400 3RD ST. VINNENES  
Affidavits necessary? SAME AS - HOWARD & HOWARD P.  
SURVIVING SPOUSE - WILLIAM - WIFE VIVIAN A - DECEASE  
Plans: List drive locations: Sta 119+23 ☒ Rt Line A  
Width 24' Surface FIELD ENTRY Any Drive Closed? NO  
Change in dr. slope? slight Change in frontage elevation over 1'? NO  
Guard rail locations (if applies) ST 102+25 - 102+95 LT  
Side ditch location (if applies) TOTAL LENGTH  
Change in drainage pattern? NO Structures to be added to area acquired? NO  
Type: AG Appraisal: ☒ FS ☐ TE ☐ PE ☐ OTHER Area of take: .480  
Unit value: 2,500/ac Offer amount: 1200.00 Date: 4-19-95  
Improvements in R/W (Describe) NONE  
Damages (Type/Explain) NONE  
Cost-to-Cure (List/Explain) 130' FETP  
Owner's Concerns to be Addressed: NOTE FIELD FILE LOCATION  
ON PLANS - EST. STA 103+25 LT 3' DEEP  
REVIEW POSSIBLE ANGUATION DAMAGES w/ REVIEW  
APPRAISER

**ENCLOSURE 4-2**

(317) 232-5050

**UNIFORM LAND OR EASEMENT ACQUISITION OFFER**

PROJECT: STP-3598(002)  
PARCEL: 9 CODE: 4321  
ROAD: State Road 12  
COUNTY: Marion

TO: John F. Brown  
Anita Louise Brown  
3456 W. SR 12  
Indianapolis, IN 46574

Steve Williams (Contract Buyers Interest)  
1987 W. SR 12  
Indianapolis, IN 46574

The State of Indiana, acting by and through the Indiana Department of Transportation is authorized by Indiana law to obtain your land or an easement across your land for certain public purposes. The Indiana Department of Transportation needs (your land) & (an easement across your land) for a public highway improvement known as State Road 12 and needs to take the (land) & (easement) as described on the attached legal description.

It is our opinion that the fair market value of the (property) & (easement) we want to acquire from you is \$16,000.00, and, therefore, the Indiana Department of Transportation offers you \$16,000.00 for the above described (property) & (easement). You have twenty-five (25) days from this date to accept or reject this offer. If you accept this offer, you may expect payment in full within ninety (90) days after signing the documents accepting this offer and executing the deed, grant or easement, and provided there are no difficulties in clearing liens or other problems with title to the land. Possession will be required thirty (30) days after you have received your payment in full.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, the Indiana Department of Transportation is required to make a good faith effort to purchase (your property) & (an easement across your property).
2. You do not have to accept this offer.
3. However, if you do not accept this offer, and we cannot come to an agreement on the acquisition of (your land) & (an easement), the Indiana Department of Transportation has the right to file suit to condemn, and appropriate the (land) & (easement) in the county in which the real estate is located.
4. You have the right to seek advice of an attorney, real estate appraiser or any other person of your choice on this matter.
5. You may object to the public purpose and necessity of this project.
6. If the Indiana Department of Transportation files a suit to condemn and appropriate (your land) & (easement), and the court grants its request to condemn, the court will then appoint three appraisers who will make an independent appraisal of the (land & (easement) condemned.
7. If we both agree with the court appraisers' report, then the matter is settled. However, if either of us disagrees with the appraisers' report to the court, either of us has the right to ask for a trial to decide what should be paid to you for the (land) & (easement) condemned.
8. If the court appraisers' report is not accepted by either of us, then the Indiana Department of Transportation has the legal option of depositing the amount of the court appraisers' evaluation with the court. And if such a deposit is made with the court, the Indiana Department of Transportation is legally entitled to immediate possession of the (land) & (easement). You may, subject to the approval of the court, make withdrawals from the amount deposited with court. Your withdrawal will in no way affect the proceedings of your case in court, except that, if the final judgment awarded you is less than the withdrawal you have made from the amount deposited, you will be required to pay back to the court the amount of the withdrawal in excess of the amount of the final judgment.

Project: STP-3598(002)

Parcel: 9

9. The trial will decide the full amount of damages you are to receive. Both of us will be entitled to present legal evidence supporting our opinions of the fair market value of the land or easement. The court's decision may be more or less than this offer. You may employ, at your cost, appraisers and attorneys to represent you at this time or at any time during the course of the Proceeding described in the notice. The offer \$16,000.00 made herein is a total of \_\_\_\_\_ offer for the entire acquisition and is intended to justly compensate you and all parties of interest.
10. Any improvements or items within the State's proposed right-of-way, which you are responsible for moving, must be removed within 30 days of the date you are paid. At the end of the 30-day period, any items remaining on State right-of-way become encroachments. Pursuant to Indiana law, the Department has the right to remove any encroachment from its right-of-way after giving the owner proper notice. Further, any costs incurred by the Department while removing such items will be assessed to the owner. If you have any questions concerning the removal of items, contact the Property Management Section at the address below, telephone 317-232-5005.

The Indiana Department of Transportation  
Division of Land Acquisition  
Indiana Government Center North  
100 North Senate Avenue, Room N955  
Indianapolis, Indiana 46204-2249  
Attn: Buying Section  
Phone: 317-232-5050

This offer was made to owner(s):

<u>John F. Brown</u>	of	<u>Marion Co.</u>	on	<u>1-2-03</u>	(Date)
<u>Anita Louise Brown</u>	of	<u>Marion Co.</u>	on	<u>1-2-03</u>	(Date)
<u>Steve Williams (Contract Buyer)</u>	of	<u>Marion Co.</u>	On	<u>1-2-03</u>	(Date)
<u>                                </u>	of	<u>                    </u>	On	<u>               </u>	(Date)

BY: \_\_\_\_\_  
(Signature)

Steven P. Penturf

(Printed Name and Title)

Agent of: The Indiana Department of Transportation

Project: STP-3598(02) Parcel: 9

If you decide to accept the offer of \$16,000.00 made by the Indiana Department of Transportation, sign your name below and mail this form to the address indicated above. An additional copy of this offer has been provided for your file.

**ACCEPTANCE OF OFFER**

I (We), John F. Brown and Anita Louise Brown;  
Steve Williams (Contract Buyer Interest Only)

landowner(s) of the above described property or interest in property, hereby accept the offer of  
\$16,000.00 made by the Indiana Department of Transportation on this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_.

**NOTARY'S CERTIFICATE**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

My commission expires: \_\_\_\_\_

My county of residence is: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

\_\_\_\_\_  
Notary Public

## INDIANA DEPARTMENT OF TRANSPORTATION, LAND ACQUISITION DIVISION

## BUYER'S REPORT

PROJECT F-234(5) PARCEL 1 COUNTY Allen CODE 2987NAME & ADDRESS OF OWNER Marc Greco  
2769 SR1, Ft. Wayne PHONE 219-324-2765NAME & ADDRESS OF PERSON CONTACTED Same PHONE \_\_\_\_\_

List other interested parties on reverse side including nature of their interest)

DATE ASSIGNED 3-22-94 DATE OF CONTACT 3-30-94 TIME OF CONTACT 6:00pmOFFER \$ 47,900 TYPE OF CONTACT: ( ☒ ) PERSONAL VISIT, ( ☐ ) TELEPHONE CALL, ( ☐ ) MAIL

Write: YES, NO OR N/A (for Not Applicable), as appropriate in each numbered blank space:

1. YES Checked Abstract with owner?
2. NO Any affidavits taken?
3. YES Any mortgage(s)?

13. NA Sent Daily Notice to Relocation Section?
14. NA Secured W-9 Form?

## LEFT FOLLOWING PAPERS WITH OWNERS

4. NO Any other liens, judgments, etc.?
5. YES Showed plans? Explained take?
6. YES Explained about retentions?
7. NA Any major item retained?
8. ? Any minor item retained?
9. YES Walked over property?
10. YES Arranged for owner to pay taxes?
11. NA Secured Right-of-Entry?
2. NA Secured Driveway Right-of-Entry?

15. YES Written offer?
16. YES Land Acquisition Brochure?
17. NA Retention Letter?
18. YES Statement of Just Compensation?
19. NA Tax memo (interim period)?
20. NA Receipt of Conveyance Instrument?
21. YES Copy of Conveyance Instrument?
22. YES Owner's Appraisal Letter?
23. NA Brochure, "Relocation & You"?

REMARKS: I met the owner and explained the need to acquire .654 acres for a bridge replacement  
on SR1. He verified that he is the sole owner with a mortgage to Ft. Wayne National Bank.I showed the plans and explained that the project will replace the bridge and approaches over  
ly ditch. I noted that the bridge will have two 12 foot lanes and 10 foot shoulders withguard rail. The approaches will have two 12 foot lanes with 11 foot shoulders and 3 foot side  
ditches. I noted the guard rail length along his frontage from STA 127+27 to 128+09 RT.I noted the approaches will be raised about 1.5 feet in elevation along his frontage. I noted  
that his drive will be reconnected to the new shoulder at its present location with a 12 foot  
width and bituminous surface. I gave him an offer, deed, plat, brochure, appraisal letterStatus of Parcel: ( ☐ ) Secured, ( ☐ ) Condemned, ( ☒ ) Other (Explain) \_\_\_\_\_

## Distribution Made:

- ( ☒ ) Parcel  
 ( ☒ ) Owner  
 ( ☒ ) Weekly Summary  
 ( ☐ ) Attorney  
 ( ☐ ) Other (Specify) \_\_\_\_\_

Bob Jones  
 (Signature)



## BUYER'S REPORT

PROJECT F-234(5) PARCEL 1 COUNTY Allen CODE 2987

REMARKS (Cont'd): and Statement of Just Compensation. I explained that the offer is for .654 acres, 2 trees, cost to relocate a well and severance damages. I explained that the setback to his home will be reduced from 63 feet to 35 feet, creating the severance damage. I explained that the 2 trees may be retained and the offer adjusted. If retained, the trees will become the owners' responsibility to move. I explained that the owner may submit his own appraisal for review and at his own expense. We reviewed the format and content required by the "Owners Private Appraisal letter".

The owner will review the offer with his attorney next week. I will contact him in 10 day to review the offer and plans again. If his attorney suggests an appraisal be made they will hire an appraiser within 2 weeks.

MG  
3-30-94

Bob Jones  
Signature

3-30-94  
Date



U.S. Department of Transportation  
Federal Highway Administration



# ACQUISITION

ACQUIRING REAL PROPERTY  
FOR FEDERAL AND FEDERAL-AID  
PROGRAMS AND PROJECTS



**R**  
Office of Real Estate Services

June 2005

## RIGHT-OF-WAY PARCEL PLAT

Prepared for Indiana Department of Transportation  
by Hanson Professional Services Inc. (Project No. 99I2005)

PARCEL: 103 OWNER: AMTHAUER, LARRY L.  
CODE: 4130  
PROJECT: STP-153-3(023)  
ROAD: U.S.R. 35  
COUNTY: HOWARD  
SECTION: 35  
TOWNSHIP: 24 N.  
RANGE: 4 E.

DRAWN BY: J. A. GARZA, DATED: 8-8-03  
CHECKED BY: R. P. McPHAIL, DATED: 8-19-03  
DES. NO.: 9706380

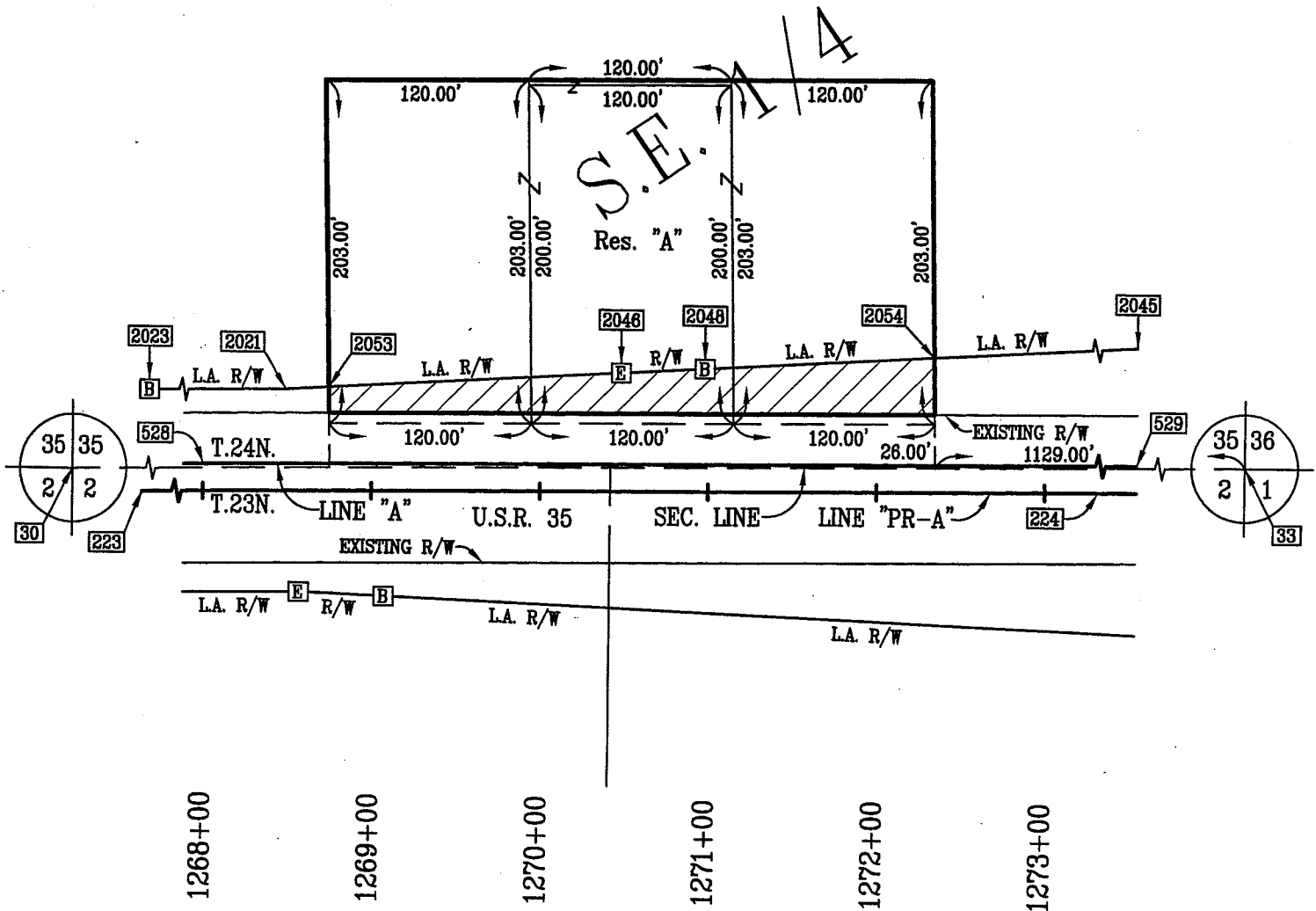
DEED RECORD 255, PAGE 2947, DATED: 5-31-79  
INSTRUMENT NUMBER 0234010915, DATED: 4-23-02

 HATCHED AREA IS THE  
APPROXIMATE TAKING  
NOTE: CENTER LINE STATIONING  
IS ENGLISH



DIMENSIONS SHOWN ARE FROM THE ABOVE LISTED RECORD DOCUMENTS.

0 25 50 100

SCALE: 1" = 100'



## LEGEND

-  BEGIN L.A. R/W
-  END L.A. R/W

This plat was prepared from information obtained from the Recorder's office and other sources which were not necessarily checked with a field survey.

PARCEL: 103      OWNER: AMTHAUER, LARRY L.  
 CODE: 4130  
 PROJECT: STP-153-3(023)  
 ROAD: U.S.R. 35  
 COUNTY: HOWARD  
 SECTION: 35  
 TOWNSHIP: 24 N.  
 RANGE: 4 E.

DRAWN BY: J. A. GARZA, DATED: 8-8-03  
 CHECKED BY: R. P. McPHAIL, DATED: 8-19-03  
 DES. NO.: 9706380

### PARCEL COORDINATE CHART (shown in Feet)

Point	Centerline	Station	Offset	Northing	Easting
30*					
33*					
223	LINE "PR-A"	+PT (1262+23.22)	0.00'	4782.9714	14341.3587
224	LINE "PR-A"	+PC (1273+31.03)	0.00'	4795.8176	15449.0964
528*					
529*					
2021	LINE "PR-A"	1268+50.00	60.00' LT.	4850.2355	14967.3989
2023	LINE "PR-A"	1265+17.07	60.00' LT.	4846.3748	14634.4920
2045	LINE "PR-A"	1274+50.00	90.00' LT.	4887.4932	15566.5394
2046	LINE "PR-A"	1270+48.50	70.03' LT.	4862.5712	15165.7692
2048	LINE "PR-A"	1270+98.50	72.56' LT.	4865.6784	15215.7365
2053	LINE "PR-A"	1268+75.07	61.27' LT.	4851.7933	14992.4500
2054	LINE "PR-A"	1272+35.04	79.46' LT.	4874.1634	15352.1829

NOTE: STATIONS & OFFSETS CONTROL OVER BOTH NORTH & EAST COORDINATES AND BEARINGS & DISTANCES.

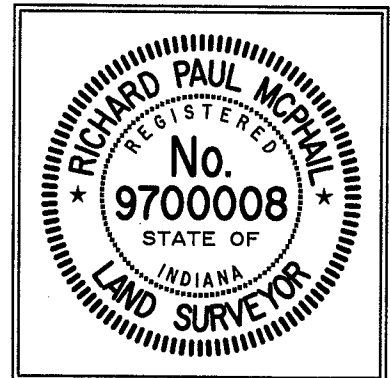
\* SEE LOCATION CONTROL ROUTE SURVEY PLAT.

### SURVEYOR'S STATEMENT

To the best of my knowledge and belief, this plat, together with the "Location Control Route Survey" recorded in Instrument Number 0234019572 in the Office of the Recorder of Howard, County, Indiana (incorporated and made a part hereof by reference) comprise a Route Survey executed in accordance with Indiana Administrative Code 865 IAC 1-12, ("Rule 12").



*Richard P. McPhail*      8-21-03  
 Richard Paul McPhail      Date  
 Reg. Land Surveyor No. 9700008  
 State of Indiana



ENCLOSURE 4-6

(317) 232-5050

Date \_\_\_\_\_

RE: Project: \_\_\_\_\_  
Parcel: \_\_\_\_\_  
Code: \_\_\_\_\_

Dear:

It is the policy of the Indiana Department of Transportation, Division of Land Acquisition to accept for review any appraisals prepared for the property owner, at his own expense, by a licensed appraiser.

There are several elementary but very basic factors that must be included in any appraisal submitted for review to make it acceptable for the purpose. We are aware that anyone familiar with acceptable appraisal procedures need not be reminded of these basic factors. It is mentioned here only as a reminder to alert the appraiser to the requirements. They are as follows:

The land values, and where applicable the entire property value, must be based on and supported by comparable sales made in the area. Realistic adjustments must be made to reflect the degree of comparability between the properties. Comparable location, sale price, record book and page number of deed record must be included in appraisal. Comparables should be included to reflect both before and after values.

The damages if any, must be fully explained and justified by a narrative statement.

It is required that the comparable sales be adjusted by percentage, or by lump sum figures to reflect the comparable's relationship to the subject property, with justification of the adjustment factors such as date of sale, location, topography, etc.

If real estate is commercial income producing property, appraisal by the income approach is required.

It can readily be seen by the above simple basic requirements that an appraisal must be supported by factual data and that the items of damage must be fully documented.

An appraisal based on these facts is acceptable for review.

Very truly yours,

\_\_\_\_\_  
Land Agent

## ENCLOSURE 4-7

ALA-REV-29

Form 36551 (Rev 9/97)

## STATEMENT OF THE BASIS FOR JUST COMPENSATION

Code 2628

1. This is a written statement of, and summary of the basis for, the amount established through a valuation process as just compensation for the purchase of this right-of-way for highway purposes. The amount set forth in Item 5 below is not less than the approved estimate of value. Public Law 91-646 provides that this value disregards any decrease or increase in fair market value of the property prior to the date of valuation caused by the public improvement for which the property is acquired other than physical deterioration within reasonable control of the owner.

2. The legal description of this acquisition is set forth in the instrument of conveyance in the following identified parcel and this acquisition is identified in the Acquiring Agency's records as:

Project STI-465-4(261) Parcel 10 Road I-465 City/County Marion

Owner(s) First Industrial Pennsylvania, LP

3. The area and type of interest being acquired: 7,260 square feet / Temporary R/W  
The amount in Item 5 below includes payment for the purchase of all interests in the real property and no separately held interest is being acquired separately in whole or part, except as may be explained in Item 8 below.

4. This acquisition is (Check one): a. ☐ - A total acquisition of the real property.  
b. ☐ - A partial acquisition of the real property.

5. The Agency's Offer: Just compensation has been determined to be and the Acquiring Agency's offer for the purchase of this real property is as follows:

a. Total Land, Land Improvements and Buildings	<u>\$-0-</u>
b. Severance Damages (i.e.: Setback, Loss in Value to the Residues, etc)	<u>\$-0-</u>
c. Other Damages (Itemize)	
Cost-To-Cure estimates:	<u>\$-0-</u>
	<u>\$-0-</u>
Temporary Right-Of-Way	<u>\$2,565.00</u>
Total Damages	<u>\$2,565.00</u>
Total Just Compensation offered for this Acquisition is:	<u>\$2,565.00</u>

6. The amount in Item 5 above may include payment for the purchase of certain buildings and improvements and their ownership shall pass to the Acquiring Agency. These buildings and improvements are identified as follows:

N/A

7. The amount in Item 5 above may include payment for the purchase of certain Land Improvements, Fixtures, Equipment, Machinery, Signs, Etc., and their ownership shall pass to the Acquiring Agency. These items are identified as follows:

N/A

8. Items owned by others (i.e.: lessee, tenants, etc.) included in Item 5 above are identified as follows:

N/A

9. Remarks:

August 20, 2004

Date

Signature

Project: ST-9932(1)  
Parcel: 22  
Code: 2881

**NOTICE**

**(OFFER BY PUBLICATION)**

TO: Ron Hornaday and Betty Hornaday (owner(s), The State of Indiana acting by and through the Indiana department of Highways (condemnor) needs your land for a public Highway improvement, and will need to acquire the following described land or interest from you:

**INSERT LEGAL DESCRIPTION  
OF TAKING**

We have made you a formal offer for this land (or interest) which is now on file in the Clerk's Office in the Dekalb County Court House. Please pick up the offer. If you do not respond to this notice, or accept the offer by August 28, 1995, we shall file a suit to condemn the land or interest therein.

Rex Garing -Rex Garing  
for: INDIANA DEPARTMENT OF TRANSPORTATION  
CONDEMNOR

[illegible]

Project: STP-170-2(C)  
Parcel: 6  
Code: 2993

**AFFIDAVIT**  
*(Unable to Present Offer)*

I, Terry LeMaster, an employee of the Indiana Department of Transportation, being first duly sworn, say that a diligent effort has been made to present the Uniform Land or Easement Acquisition Offer Letter to Mark Donahue  
 and ~~(he)~~ ~~(she)~~ ~~(they)~~ will not allow said Offer Letter to be presented.

Larry LeMaster  
(Affiant's Signature)

Terry LeMaster  
(Affiant's Printed Name)

Before me, a Notary Public in and for said County and State personally appeared Terry  
LeMaster, who acknowledged the truth of the statements in the foregoing  
affidavit on this 9th day of November, 19 94.

Edmund Kelly  
Notary Public (Signature)

Edmund Kelly  
Notary Public (Printed Name)

*My Commission expires* October 2, 1996

My County of Residence is Marion



STATE OF INDIANA )  
 )SS:  
COUNTY OF Dekalb )

Enclosure 4 - 10

Project: ST-9932(1)  
Parcel: 22  
Code: 2881

**AFFIDAVIT**  
(Unable to Locate Owner)

I, Rex Garing, an employee of the Indiana Department of Transportation, being first duly sworn, say that a diligent effort has been made to present the Uniform Land or Easement Acquisition Offer Letter to Ron Hornaday and Betty Hornaday and that a diligent search has been made and that the owners can not be found.

Rex Garing  
(Affiant's Signature)

Rex Garing  
(Affiant's Printed Name)

*Before me, a Notary Public in and for said County and State personally appeared* Rex Garing  
*who acknowledged the truth of the statements in the foregoing affidavit*  
*on this* 3rd *day of* August, 19 95.

Kenneth Grantham  
Notary Public (Signature)

Kenneth Grantham  
Notary Public (Printed Name)

*My Commission expires* June 1, 1996

*My County of Residence is* Marion

#### ***Enclosure #4-11***

*The following is a sample Introductory Letter that has been developed to illustrate acceptable content for the opening letter in the Offer by Mail Package. You are cautioned not to use this letter on your project but rather to develop a letter that focuses on the project on which offers will be made by mail. An introductory letter that has been customized to a project is more meaningful and will serve as a positive influence on the property owner.*

#### **Sample Introductory Letter**

(Date)

(Name and Address)

RE: Project:  
Parcel:  
Code:  
County:

Dear \_\_\_\_\_:

The Indiana Department of Transportation (INDOT) is undertaking a project to improve United States Road (USR) 31. The purpose of this project is to realign and rechannel traffic along USR 31 between I-465 and 106th Street. This will be accomplished by adding two northbound lanes and two southbound lanes to US 31 as well as left turn lanes at the intersections of USR 31 and 103rd and 106th Streets.

The improvements will serve to reduce traffic congestion as well as the probability of accidents. The completed project will include a repaved USR 31, paved shoulders, curbing and new storm sewers on both sides of the road. The elevation of USR 31 will remain at or near its present location. The utility lines along the road will be relocated by their respective utility companies, at their expense.

In order to accommodate the planned improvements, it will be necessary to acquire 1.032 acres of permanent right-of-way off the eastern portion of your property along USR 31. A land plat and plan sheet are enclosed showing the required area.

INDOT is prepared to offer you \$35,650.00, of which \$30,500.00 is for the right-of-way and land improvements consisting of: two elm trees, three evergreen shrubs, lawn, concrete sidewalk and asphalt pavement. The remaining \$5,150.00 is a cost-to-cure for relocating the 6' x 11' trademark sign and two light standards.

In accordance with Indiana Code (IC) 32-24-1, the offer of \$35,650.00 was arrived at by an appraiser using standard appraisal methods. Also in accordance with IC 32-24-1, you have twenty-five (25) days from receipt of the offer in which to accept or reject it.

(Name)

(Date)

Page Two

To assist in your decision, I have enclosed the following:

1. Brochure, "How Land is Purchased for Highways;"
2. Uniform Land or Easement Acquisition Offer letter with legal description attached thereto;
3. Land plat;
4. Plan sheet highlighting the required right-of-way and planned improvements.
5. Statement of Basis for Just Compensation; and
6. Owner's Private Appraisal Letter.

If you decide to accept the offer, please notify me and I will prepare the necessary documents. However, should you disagree with the amount offered, you may submit your own appraisal for consideration by our Appraisal Section. If you elect to obtain your own appraisal, you do so at your expense and submitting an appraisal does not guarantee that any change will be made in the offer.

If you should have any questions regarding this matter which you want to discuss, I encourage you to contact me at (telephone number). If I do not hear from you, I will contact you in approximately two weeks to arrange a personal meeting.

Thank you for your cooperation.

Sincerely,

Land Agent

LAI/ms

Enclosures

## INDIANA DEPARTMENT OF TRANSPORTATION, DIVISION OF LAND ACQUISITION

## DAILY NOTICE TO RELOCATION

Project F-245(d.)Parcel 6Road US31County MarionCode 2678

TO: Manager, Relocation Section

(x) Total Take ( ) Partial Take

( ) Temporary Take

Amount of Offer \$63,500.00

1. The Date of Initiation of Negotiations for this parcel was: 6-21-95
2. Name of Owner: James Buchanan  
Address: 18098 S US 31, Greenwood, IN 46098 Phone: 317-254-9080
3. Buildings or Structures Occupied By:  
Owner (x) Contract Buyer ( ) Tenant ( ) Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Use reverse side if more space is needed to show all Owners, Contract Buyers, Tenants
4. Address (or Location) of Property in the Right of Way: 18098 S. US 31, Greenwood, IN  
46098
5. Describe Buildings/Structures and other Real Property included in offer: \_\_\_\_\_  
2 story house with attached garage, storage shed
6. Parcel Contains Landlocked Property with Building Structures ( ) Yes (x) No.
7. Signs in Right-of-Way but not included in offer: (Describe, and Include Station Numbers) \_\_\_\_\_  
none
8. Remarks in General: contact owner after 5:00pm

Original to Central Relocation Office

Copy to Property Management

Copy to Control

Copy to Parcel

DATE: 6-21-95Ted Elmore

Land Agent

## CHAPTER FIVE

### THE PRESENTATION

Having arrived at the appointed time, given the owner your business card, made the introductions and exchanged pleasantries, you should inquire where they would like you to sit. Suggest the kitchen table if it is available. This will allow you room to display the plans and paperwork, providing adequate seating room for all parties. This seating arrangement will also take away any psychological advantage the owner may be seeking if he sits on his easy chair "throne" in the living room while you kneel in front of him to display the plans on the coffee table.

Likewise, don't help yourself to his favorite chair, souring the tone of the meeting before it starts.

#### 5(1)

##### **Display the Plans**

Begin with a general orientation to the nature of the project. Lay the plans so that the north arrow actually points towards north. Many people have poor conceptualization skills and cannot reconcile the plans with reality unless they are facing the same direction. Show them the cover sheet or plat 1 noting what is to be built and the lengths of the project. Then show them the typical cross section sheet explaining the surface, width and drainage called for. You will have noted in your preparation what sheets show this property and you can go directly to them. Begin with the plan & profile sheet as it contains the most information. Note the existing structure/ lanes and then compare it to the new structure/lanes & shoulders in order to emphasize why additional right of way is necessary. Point out any elevation changes, new structures (inlets, pipes, guard rail), side ditch locations, driveway widths- lengths- surfaces and locations. **Be careful not to leave the owner with the impression that his drive will be resurfaced on its entire length.**

Offer to take the plans outside and walk the area of take in order to point out improvements to be acquired and to help orient the owner to the taking. This is a good time to discuss any design problems such as septic system locations or cost to cure items to be moved. It will be easier for the owner to identify the area where he must relocate items. After you have thoroughly explained the plans and taking, ask the owner if he has any other questions. If not, put the plans away so as to limit the distractions and keep the owner's attention focused on your current discussions.

If the owner requests a set of plans, you can obtain additional sheets which show his property and provide them to him at a later date. Explain that it is not feasible to provide complete sets for all 3000 ownership interests with which we deal each year.

#### 5(2)

##### **Affidavits**

Before beginning the negotiations you should obtain any affidavits necessary to establish title such as; surviving spouse, heirship, I knew in his lifetime, same person as, judgment debtors or lessee's noncompliance. However, do not obtain any affidavits at this time which will establish authority to convey, as these must coincide with the date of the deed. (Trustee's, corporate, partnership, sole proprietorship, LLC Manager or Executive). You are likely to get the owner's cooperation at this time. The owner may become upset with the offer and become obstructive after it is made. If the owner questions the necessity of the affidavit, explain that you

have yet to establish his full ownership claim which is critical prior to making an offer. If he refuses to sign or wants legal advice, you will have to make an independent assessment of whether the title is sufficiently established to proceed to make the offer. See Chapter 8 (8) for details of the use of affidavits.

### 5(3)

#### **Environmental Disclosure Document (EDD)**

As with the affidavits, you should give the owner an EDD, if applicable, explaining its use prior to making the offer. If possible, encourage him to complete it while you wait, before making the offer. If necessary, you will leave it with him, explaining that, by law, it must be completed before the property can be transferred. (See Chapter 7, Due Diligence, enclosure #1, EDD).

### 5(4)

#### **Offer Presentations**

You will leave the complete offer package with the owner, presenting and explaining each item. The package includes an offer with deed attached, plat sheet, an "Acquisition: Acquiring Real Property For Federal And Federal-Aid Programs And Projects" brochure, an Owners Private Appraisal letter, a Statement for Basis of Just Compensation and a buyers report. (Parcels involving relocation will include a "Relocation and You" brochure and a RAAP6 or RAAP24 letter. *See enclosures #1 & #2*)

Organize your offer materials to be presented in a logical order to eliminate paper shuffling. **Be appreciative that you will be overwhelming the owner with information on a subject of which he has little or no knowledge. Therefore, you must control the subject matter and maintain the owner's attention by limiting the distractions.** (See Chapter 6(1), Negotiating). Present the "Acquisition: Acquiring Real Property For Federal And Federal-Aid Programs And Projects" booklet with a brief explanation of its contents and set the booklet aside. Explain that you will cover all the necessary information in your presentation and that the booklet is for his reference if he has questions after you leave. This will prevent the owner from reading the booklet while you are trying to present the offer.

Present and explain the plat attached to the legal description.

Now you have reached the moment the owner has been anticipating: the offer. The offer letter should remain out of the owners view until you are ready to hand it to him. Verify once again that the offer is correctly addressed, and that all appropriate parties are identified. Announce the offer in a confident voice while placing the offer letter in a position that you can both view it. Look the owner in the eye while announcing the offer. You are not ashamed or embarrassed by the amount. The owner may want to discuss the amount or ask you to justify it immediately. Explain that you will discuss it as soon as you have covered the rest of the information in the offer letter. This may diffuse an outburst of emotion if he has to wait before expressing his opinion. Explain the acquisition procedures and the owners options while pointing to where the information can be found. Note that there are no expenses involved for the owner in selling the property if he accepts the offer. Explain that INDOT will not reimburse him for either attorneys fees for representing him in the negotiations or for the cost of obtaining his own appraisal. Explain the procedures of eminent domain litigation should he refuse the offer. Note that the offer is dated on page three which will initiate his 25-day period for consideration of the offer. Finally, explain that page four is an acceptance and that a copy of the deed, legal description/land plat is attached, which describes the area which INDOT has offered to purchase.

Now you are ready to explain what the offer represents. Present the Statement for Basis of Just Compensation and explain what land area, nature of title to be acquired, severance damages and cost to cure items are involved. Be prepared to explain the appraisal process and what methods were used to arrive at the offered amount. However, you cannot provide more specific or detailed information regarding the components of the offer than are revealed in the Statement for Basis of Just Compensation. You cannot specify the amount paid for a particular land improvement. If the owner is reacting negatively, explain what options are available to obtain a value that he considers to be fair. Present the Owner's Private Appraisal Letter and explain its use. (See Chapter 6(3), Private Appraisals). Explain that he may obtain his own estimates for cost to cure items and submit them for review. This is the moment when you can change his perception of you from an adversary to an associate. You are there to hear his opinions and determine whether they have merit and need to be addressed. Do not take offense at his emotional reaction. He will probably be embarrassed and apologize once he calms down. Explain that you are here to assist him in reviewing the offer and protecting his rights. *However, you may not give your opinion of the offer if the owner asks.* Explain that the decision must be his.

Some owners may wish to initiate negotiations with an unsupported counteroffer under the mistaken impression that you will split the difference with them. This is an opportunity to explain your fiscal responsibility to the taxpayers of Indiana by reminding the owner that taxpayers demand that all expenditures be justified. If the owner will submit supporting documentation of his opinion of value, it will be considered, but his ability to negotiate has no bearing on the value of his property. Furthermore, any unjustified settlements made would serve to penalize the other property owners who accepted their offers or submitted appraisals. If the owner does not react to the offer, he probably agrees with the amount offered. If the presentation is going well, you should explain that they may accept the offer at any time prior to the 25 days expiring by signing the acceptance and mailing it; OR they may sign all the documents now while you are there if they do not wish to review the offer any further. If they accept the offer immediately you will note their waiver of the consideration period in your buyer's report.

## 5(5)

### **Retentions**

Offer to allow the owner to retain land improvements, fixtures and buildings. Note this offer in your buyers report. Retentions will fall into two categories; major and minor.

**Major retentions:** These are any buildings or structures. Buildings will include homes, commercial structures, barns and garages **but not portable storage sheds or mini barns.** Mini barns will not be appraised or be included in the offer because they are personal property and moved as a relocation item. Structures would include free standing land improvements which are anchored to the ground, such as radio towers or fuel storage tanks.

Explain as a part of the offer process that retention of a building is possible and that **the owner must make arrangements for a retention before the deed is signed.** If the owner is interested, submit the parcel to the Property Management Unit for a retention value and amount of performance bond to be posted. Inform the owner of the amount to be deducted from his offer for the retention and amount of bond required. Explain that a surety performance bond is used to ensure that the building will be removed, using the funds from this bond, should the owner fail to remove it.

You should also advise him of the necessary considerations to be made before committing to the retention. The owner must identify a suitable replacement site and should contact all the necessary contractors (moving, foundation, septic/well) to verify the structure is

feasible to move, that the contractors will be available for work during the specified time frame, that the moving permits can be obtained and zoning is appropriate. Give him a copy of the retention agreement (*see Chapter 8(12), enclosure 8-18, securing procedures*) and review it with him to ensure that he fully understands his responsibilities. Explain that he is making a financial commitment to move the structure and any failure on his part or on the part of his contractors will cause a forfeiture of his bond and a potential loss of the building. **The State has no responsibility for any damage whether to the building, other structures or injuries incurred in the move.**

He must remove the structure from the right of way within 60 days of receipt of payment. He must clean up the site and remove any debris created by the moving process. He must remove any foundation walls left above ground (not including a slab). He must contact the district construction engineer, 48 hours prior to the move, to arrange an inspection. The owner will remove all debris from the basement, seal the drains with concrete, remove the walls down to two feet below grade, break up the floor and fill the basement with gravel; all to be completed on the same day as the move. The Engineer will sign the approval form, releasing the owner's bond. The bond will be refunded within 30 days after the engineer has signed off approving the move.

If the owner chooses to retain he should obtain a surety performance bond, a certified check or cashier's check (payable to "The Indiana Department of Transportation") for the amount specified by Property Management. The retention agreement will be signed along with other conveyance documents and submitted with the performance bond in the secured parcel. (See Chapter 8(12), for securing procedures.) Note that a retention clause must be added to the deed (see Chapter 8 (2), deed preparation).

If the structure is a billboard, the salvage value will be included in the appraisal. While the salvage value will be deducted from the offered amount, a retention agreement is not necessary for a billboard. The retention will be noted on the status report to alert the Property Management Section that an improvement must be monitored for removal. The owner should be made aware that he must contact the Property Management Unit to arrange any lease back provisions if it is not to be removed immediately. Even if the land has not been yet acquired INDOT has purchased the sign owner's lease and he has no right to leave it in place. INDOT has acquired his leasehold rights to that site.

#### **Retentions of Buildings with Slight Encroachments**

If the building is only slightly encroaching into the proposed right of way the owner may plan to simply cut off the encroaching porch or corner and keep the building intact without moving it. If INDOT paid \$60,000 for the building and the owner retained it for \$4,000 and spent only \$3,000 removing the porch, he would net \$53,000 in damages. This would be considered a windfall to the owner because it would far exceed the damages which would have been paid for a reduction in setback. **You should foresee this possibility before committing to a retention value.** Under these circumstances, you should not obtain a retention value from Property Management. You will route the parcel to the Appraisal Section to determine the cost of cutting off the encroachment and to establish a retention value, based on the estimated severance damages due to a reduction in setback. The deed will still retain the temporary easement for building removal to assure INDOT's ability to remove it should the owner fail to do so. Once the retention value is established the procedures to retain are the same as described for major retentions.

**Minor retentions:** These are fixtures and land improvements which are included in the real property value such as plumbing, lighting fixtures, cabinets, water heaters, landscape items and trees. The buyer is responsible for establishing the salvage value of minor items. You



should consider the cost new, age, condition, cost to move and any possible antique value in determining the retention value. The goal is to establish a fair value but this price should not become an obstacle to the acquisition of the parcel. You will explain that the retention is to be removed within 30 days of receipt of payment on partial acquisitions. Retentions will be removed prior to vacating the property on total acquisitions. All retained items must be listed on a Retention of Ownership (Fixtures and Parts) form. (See Chapter 8(2), securing procedures and 8 (12), retention form).

**Please note that exterior doors and windows cannot be retained due to the security and legal liability problems posed during INDOT's possession prior to demolition.** These retentions not only cause problems for INDOT but also create an unsightly environment within the neighborhood, giving it an abandoned appearance. This appearance invites vandalism and scavenging, making life unpleasant for those homeowners who live nearby and exposing INDOT to potential legal liabilities for injuries.

If the retention is a small wood sign it will be treated as a minor retention, unlike a billboard.

## 5(6)

### **Buyers Report**

You should prepare the buyers report in advance of your appointment. This will give you the time to make sure the report is complete and accurate, as well as avoiding wasting the owners time. Add any of the owner's comments or agreements as to what steps will be taken and ask the owner to initial the completed report. This will protect you from future unfounded claims of misrepresentation. (See Chapter 4(3), Buyers Report preparation).

Provide a copy to the owner for future reference.

## 5(7)

### **Summation**

Ask the owner if he has any other questions. Tell him to write down any questions he may think of while awaiting your return call. **Inform him that you will contact him in 10 days and again after 20 days to see if he has questions.** Give him your business card and encourage him to call you if a question arises. If you have agreed to investigate an issue, give him an estimated time frame for obtaining an answer and make every effort to follow through on it. If he is going to take some action, such as speaking to an attorney or obtaining an estimate, impress upon him the time limitations and try to get him to agree to a time frame. ( See Chapter 6(1), Follow up). **The objective is for all parties to know what their responsibilities are, the time frames, the consequences of delays, and what the next activities will be.**

## 5(8)

### **Follow Up**

Owners have the expectation that you are immediately going to deal with their issues. If there is a delay (workload, problems getting answers, illness, etc.) call the owner to let them know of the delay and when they can realistically expect to hear from you next. This will continue to maintain goodwill though this, sometimes arduous process.



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

EVAN BAYH, Governor  
 STAN C. SMITH, Commissioner

Writer's Direct Line:  
 317/232-5050

James Brown

3211 SR 69

New Harmony, IN 47631

Date: July 15, 1995

Project: ST-005-2(6)

Code: 2942 Parcel: 38

Dear Mr. Brown:

This is to advise you that on July 15, 1995, the Indiana Department of Transportation (INDOT) initiated negotiations for the property you occupy. This is **NOT A NOTICE TO VACATE**.

This letter is to notify you of your eligibility for relocation assistance as a displaced person. As a displaced owner/occupant of 180 days or more, you may be eligible for reimbursement of moving expenses, a replacement housing differential payment, increased interest costs, and certain closing costs incurred in the purchase of your replacement housing. As a displaced owner/occupant of at least 90 days but less than 180 days, you may be eligible for reimbursement of moving expenses and a replacement housing payment to assist you in making a downpayment on a replacement dwelling. There are certain requirements to meet in order to receive the moving cost and replacement housing payments. You also have the option of renting a replacement dwelling.

Available relocation assistance includes current listings of sales and rental housing in your area, information on interest rates, closing costs, typical downpayments, FHA, VA and conventional loan requirements, and local ordinances pertaining to housing and building codes. A Relocation Specialist will contact you in the near future to fully explain the Relocation Program and applicable relocation benefits. You may also contact the Relocation Section at 100 North Senate Avenue, Indianapolis, Indiana, 46204; telephone the above number, or at the Project Relocation office located at (N/A), telephone .

Sincerely,

Harold E. Noel

Acquisition Specialist

Please acknowledge receipt of this letter with your signature below:



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

EVAN BAYH, Governor

STAN C. SMITH, Commissioner

Writer's Direct Line:

317/232-5050

Brown & Sons3212 SR 69New Harmony, IN 47631Date: July 15, 1995Project: ST-005-2(6)Code: 2942 Parcel: 39Dear Sirs:

This is to advise you that on July 15, 19 95, the Indiana Department of Transportation (INDOT) initiated negotiations for the property you occupy. This is NOT A NOTICE TO VACATE.

This letter is to notify you of your eligibility for relocation assistance as a displaced person. As a displaced business, farm, or nonprofit organization you may be reimbursed for certain expenses in searching for, moving to, and reestablishing at a replacement site. You may be eligible for a payment in lieu of searching, moving and reestablishment expenses if you chose to discontinue operation or anticipate losing substantial patronage because of your move. There are certain requirements to meet in order to receive these payments. All claims for relocation payments must be submitted to INDOT within 18 months of the later of the date you move from the displacement site, or for owners, the date you receive final payment for the displacement site.

Available relocation assistance includes current listings of commercial properties for rent and sale in your area. Small Business Administration referrals, tax abatement programs, plus zoning and other information are also available through the relocation assistance program. A Relocation Specialist will contact you in the near future to fully explain the Relocation Program and applicable relocation benefits. You may also contact the Relocation Section at 100 North Senate Avenue, Indianapolis, Indiana, 46204; telephone the above number, or at the Project Relocation office located at N/A, telephone .

Sincerely,

Harold Noel

Acquisition Specialist

Please acknowledge receipt of this letter with your signature below:

Relocatee

Printed on Recycled Paper • An Equal Opportunity Employer

## CHAPTER SIX

### THE NEGOTIATING PROCESS

#### 6 (1)

#### NEGOTIATING

##### **Common Courtesy**

Everyone appreciates being treated with respect. Make your appointments at the owner's convenience, within reason. Be punctual; never show up late for an appointment. This means planning for driving time, even in rush hour, and knowing how to get there. The tone of your relationship is set here. Remember that you are inconveniencing them and arriving late can create an adversarial relationship before the offer is even made. Allow adequate time for the appointment. The owner will feel unimportant if you hurry; or he may interpret your rush as insecurity. Treat their time/home/children/dog with the same respect you demand from visitors. While introductory pleasantries are necessary, don't spend an excessive amount of time getting down to business. Pay attention to little things like wiping your feet, awaiting instruction as to seating, being careful not to scratch a table with your materials. A lack of manners, causing a personality clash with the owner, will assuredly result in a condemnation. Dress in a professional manner; you are there for business, not a party.

##### **Confidence**

You must be prepared for every meeting. A thorough knowledge of the plans, owner's property, and our appraisal will allow you to deal with the owner in a confident, *not superior*, manner. Do not enter the negotiations with an apologetic manner which conveys the impression you have done something wrong. You should express concern for their situation and a sincere desire to help them sort through a complicated transaction.

##### **Control**

You should control the pace and agenda of meetings. You have the information that they need. You are familiar with the issues and the procedures, having been through multiple acquisitions. The owner will need you to guide him through the decision-making process; what to focus on and what steps to take. In order to be of any assistance, you will have to remain calm, focused on the issues and not be baited into an argument. Avoid immaterial and controversial subjects which, if allowed to get out of hand, will keep the meeting from focusing on its true purpose. Organize your materials, to be distributed to the owner, before the appointment. This allows the material presentation to follow a logical progression and provides you some control over pace and topics of discussion.

##### **Listen**

You should plan to spend whatever amount of time is necessary listening to the owner's concerns, as long as the discussion is productive. Be appreciative that you are the first opportunity the owner has had to vent his frustration. Allow him some time to voice his opinions and complaints. Take notes regarding his problems and include them in your buyer's report. This demonstrates your concern for his situation and assures him that you are listening and that he has input to the process. This is your opportunity to find out what specific issues are important to him. Money is not always the primary concern. If you are unclear as to what would

satisfy the owner, ask him to prioritize his issues. Keep the owner focused on the relevant issues of the acquisition. Many times an emotional owner will consume your time complaining about "government" actions which have nothing to do with his property and our project.

### **Discuss - Never Argue**

If the owner expresses an opinion which you know to be factually wrong, you should politely correct him without arguing or conveying the impression of superiority. This will avoid his building a position upon a false assumption. If a discussion becomes emotional, both parties are so firmly set in their beliefs that neither party listens to the other. One person is thinking of his rebuttal and next statement while the other is speaking. If an owner is firm in his beliefs, you should acknowledge his opinion and explain that you can appreciate why he holds it. Then explain why you must view it differently. It is possible to agree to disagree, which allows lines of communication to remain open and a settlement possible.

### **Don't Oversell**

Do not guess at answers to owners' questions. Simply tell them you don't know but will get an answer. Don't over-emphasize the benefits of a project, appraisers' qualifications or the threat of eminent domain. It will only serve to further alienate the owner and cause him to question your integrity. If you have bad news, address it directly and honestly. The owner may react negatively at first but he will appreciate the fact that you didn't hide it or ignore the problem. Explain that your job is to identify his concerns but that you can't guarantee that all of his concerns can be resolved.

### **Know When To Leave**

Occasionally an owner will become so emotional that any further discussion, after the plans and offer are presented, is counter-productive. You will not convince this person of your point of view, on this day, and any further discussion will alienate him. Ask if he has any other questions, explain his options and leave.

### **Deal From Fact**

Verify with all ownership interests that the person you are dealing with does in fact represent them and that they will accede to any decision he makes. If an owner refers you to his attorney, you will refrain from any further direct contact with the owner. The attorney will initially need to be informed of the details of the project, offer, the owners' position and the acquisition procedures. However, you shouldn't allow him to go on a fishing expedition to see what he can obtain for the owners. Verify that he represents the owners wishes and whatever he agrees to, the owners will accept.

Likewise, you must convince him that you have full authority to negotiate for the state. Accept your responsibility and recognize your authority. Don't give the owner or the attorney the impression that you are only the messenger. This only encourages him to contact your supervisor to get what he wants.

Verify any information an owner cites in your conversations, such as recent comparable sales in the area. It is human nature to exaggerate during an intense discussion or to repeat rumor as fact.

Frequently an owner will cite a neighbors' offer as a basis for demanding an increase. Explain that you will not discuss the neighbors' offer in order to protect the neighbors' confidentiality, just as you will protect this owners' confidentiality when meeting others. Explain

that offers will contain damages and cost to cure items which invalidate simple comparisons of sale price divided by area.

### **Clarify/Simplify**

Reduce all issues to their simplest terms for the layman. Appreciate that the owner knows little or nothing about real estate, highways, construction or appraising. After each discussion summarize your understanding to ensure that you both agreed to the same thing. Such a recap should be in the buyers report, especially for a securing call, when prolonged negotiations have resulted in multiple changes or special conditions which alter the terms of the sale from the original offer.

### **Follow Up**

You should plan to follow up at the 10 and 20 day intervals following the offer, even when the owner has no questions. This will provide the owner every opportunity to raise questions before the 25 days expires. If the owner has no questions after the 10 day call, ask if he wishes to waive the consideration period and accept the offer. If questions or problems are raised, you will conclude every conversation and buyers report with a recap of what you will do, what he will do, when the tasks will be accomplished and what the effect will be if the tasks are not completed on time. Make sure that you perform as you committed to, if you expect the same of the owner. If the owner's request will cause lengthy delays in the negotiations, ask for a Right of Entry (see chapter 8(9), enclosure 8-14) as consideration for your willingness to delay his decision.

Never assume that an owner is satisfied based on a verbal agreement. Aggressively pursue the parcel until a signed instrument is in your hand. Many parcels have ended as condemnations after a buyer allowed six months for an owner to sign and return a document, based on the assumption that all was well. Remember that some people will outright lie to you if it will gain them an advantage.

**We usually have sufficient time to resolve owners' problems but not if they don't raise the issue or document it in a timely manner. You must instill the importance of timeliness in the owner for his own good. Our goal is to treat every owner fairly while maintaining a project schedule.**

It is your responsibility to see that all owners are fully compensated and to make any necessary and reasonable plan changes. However, INDOT cannot allow multi-million dollar contracts to be delayed because the owner didn't consider the offer important, until he was asked for a decision, but now wants design changes and to spend a month getting cost to cure estimates.

Any delay to a right of way clear date will likely cause the contract to be let in the next construction season, adding 3-5 percent to the cost of the contract. In real dollars, a \$15 million job will increase by \$750,000 if we delay it while awaiting a \$600 estimate for fencing. **Delays in negotiations, whether caused by your failure to follow up in a timely manner or by allowing the owner to investigate issues which are irrelevant to the value of his land, will degrade your bargaining position by reducing your options. At some point you will no longer have enough time left before the contract letting date to consider condemnation as a viable option.** Remember that condemnations take one year to provide INDOT possession of a property.

It is a fine balance of maintaining a productive working relationship while instilling a sense of urgency in the owner. The owner is more likely to respond positively if you present a time frame on the first call and explain that it is your intent to protect him from being pressured

into a decision without adequate information. For his protection he should begin any necessary considerations immediately.

## **Good Business Practices**

**Good negotiations identify all the issues before any changes are made.** Do not agree to make plan changes, settlements or any other concessions until the owner agrees to accept the offer or grant a Right of Entry. Be aware of the famous last request, which never is. "Everything we talked about is OK but I just thought of something else ...". Prolonged negotiations and plan changes that end in condemnation delay projects and increase their cost. The golden rule of negotiations is to be reasonable. If the owner's request sounds reasonable to you, it probably should be addressed.

### **6 (2)**

#### **PLAN CHANGES**

Review the request with your supervisor and the regional manager. Consider whether the plan change will reduce the offer and whether the owner is aware of this or will expect the same compensation. Verify the feasibility with the appropriate Design Consultant and arrange for the change to be made. If you are requesting a plan change, prepare a design change memo (enclosure #1) and submit it, with a plan sheet mark-up of the proposed change. The parcel is not routed to Design. Parcels are only routed to other Real Estate sections. If the change requires the parcel to be routed, such as a change in description requiring a new deed and appraisal review, complete a Rec/Route sheet (enclosure #2), attach it to the front of the parcel and give it to the Section Clerk for routing & database entry.

**Be aware of the impact any requested change may have on other parcels and take the necessary steps to coordinate the change with other owners and other INDOT divisions. If the change will effect the construction, right of way needed or the value of an adjoining property you should carefully review the proposal with the engineering or appraisal sections, the Design Consultant or the adjoining owner (as appropriate) to assure that the change is beneficial, cost effective and is not placing a burden upon another owner.**

### **6 (3)**

#### **OWNERS' PRIVATE APPRAISAL**

If the owner says he will submit a private appraisal, inform the owner that INDOT will accept for review any supporting evidence that the owner is wishing to present. If any evidence is submitted for review, make a copy for the parcel and route to the Review Appraiser. Return the owner's appraisal/evidence to him and explain the reviewer's findings, either making a revised offer or rejecting the value.



## Indiana Department of Transportation

Land Acquisition Division  
100 North Senate Avenue, Room N955  
Indianapolis, Indiana 46204-2219

FAX: (317)233-3055 - Writer's Direct Phone:

ENCLOSURE 6-1

### MEMORANDUM

TO: Chuck Wagon  
First Engineering

FROM: Steven P. Penturf, Manager  
Buying Section  
Division of Land Acquisition

DATE: October 3, 2005

RE: Project: STP-106-3(015)  
Parcel: 29  
LA Code: 3860  
County: Clinton  
Road: S.R. 28  
Des.: 9503450

The owners of the above referenced property have requested the following design change: Widen the current Limited Access R/W opening located at station number 8+613 (right, line P.R. "F") from 16 meters to 32 meters to accommodate future use as an industrial drive entrance. This request was discussed with Chuck Wagon of First Engineering, and verbal approval was given for the above change. This design change is part of a settlement of a condemnation case involving the subject property.

**If the foregoing request is approved, please forward a copy of the revised plan sheet to Tami Stokes, INDOT Project Coordinator (N642), John Wright, INDOT Design Manager (N642), Ron Raney, Manager, R/W Engineering, Land Acquisition (N955), Steve Penturf, Manager, Buying Section, Land Acquisition (N955) on or before October 25, 2005. If you have any questions feel free to contact Steve Penturf at (317)232-5047.**

SPP/spp  
Attachments

xc: Tami Stokes, INDOT Design  
Deb Switzer, Right-of-Way Engineering  
Records  
Parcel



COUNTY \_\_\_\_\_

ROAD NO \_\_\_\_\_

PROJECT \_\_\_\_\_

CODE \_\_\_\_\_

PARCEL \_\_\_\_\_

<b>SUBJECT: Recommendation For:</b>		<b>( )-Review:</b>	<b>( )-Change:</b>	<b>( )-Correction:</b>	<b>( )-Other:</b>
<b>From: Buying Section, L.A. Div.</b>		<b>To:</b>		<b>Date:</b>	

\_\_\_\_\_  
(Buyer)\_\_\_\_\_  
(Supervisor)

<b>From:</b>	<b>To: Buying Section, L.A. Div.</b>	<b>Date:</b>
--------------	--	--------------

Comments:

\_\_\_\_\_  
(Signature)

## CHAPTER SEVEN

### ENVIRONMENTAL REVIEW OF PARCELS

The buyer's goal, when dealing with a potentially contaminated site, is to identify the extent of contamination, and to inform Design of any potential hazards.

Upon receipt of a new project, the buyer should review the "Scope of the Project" report which is available in the correspondence file of the project in the Real Estate Records Section. This report will address environmental concerns on the project. Depending on the type of project the report may have only a memo from the Pre-Engineering Division, Environmental Section stating that there are no obvious concerns or it may have an Initial Site Assessment (ISA) or Preliminary Site Investigation (PSI) if problems do exist.

An ISA is a report of a visual inspection of the property for obvious problems combined with an investigation of the historical records of use of the property. If any contamination is seen or questionable uses noted, a PSI will be ordered.

A PSI is a report based on soil boring analysis to determine the location and extent of contamination. If the PSI identifies contamination a copy of the report is forwarded to the Indiana Department of Environmental Management (IDEM) by INDOT Environmental. IDEM will open a file, issue a notice of violation to the owner, approve a cleanup plan submitted by the owner and monitor the cleanup progress. You should check the appropriate IDEM files (spill, Underground Storage Tank-UST, and Leaking Underground Storage Tank-LUST) for any reports on the site.

After you have gathered all the available information on the site, you must evaluate the risk involved with proceeding to secure or condemn the parcel. Any parcel which has a UST in the area to be acquired must have a PSI to determine whether it has leaked. Most parcels will fall within the gray area and will require your good judgment as to the amount of risk involved in acquiring the parcel.

Indiana Code 13-25-3 requires that Environmental Disclosure Documents (EDD's) be completed by the seller, submitted to the buyer for review, and recorded after the sale is finalized. I.C. 13-11-2-174 delineates which properties require EDD's.

1. Any property which is subject to reporting under the Federal Emergency Planning and Community Right to Know Act. These would be properties which store hazardous materials.
2. Any property which contains a UST over 1,000 gallons **for commercial use**.
3. Any property listed on the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS); i.e., seriously contaminated properties.

If your inspection of the property or discussions with the owner reveal either a current or prior hazardous use, you should obtain an EDD and review the situation with their manager to determine whether a PSI is merited.

**An EDD must be obtained for these properties even if a PSI or DSI has been made. The EDD is required by law and must be recorded as a part of the transaction even if it doesn't add to our knowledge of the property.** (See enclosure #1). The owner will complete the EDD and sign it certifying his knowledge of the property. The buyer will notarize the owner's signature as of the date he signs it. The buyer will sign the EDD as receiver for INDOT and have his signature notarized as of the date of his signature. The buyer will attach a copy of the deed or other form of legal description and place it in the parcel. If the EDD discloses UST,

the owner should attach a sketch showing the location of the UST, or other known area of contamination, in relation to the right of way lines.

If it is determined that the acquisition should proceed, either to secure or condemn, the buyer should prepare a memo to the Buying Section manager explaining why the risk of acquiring this property is acceptable and what steps were taken to identify the risk level. (*See enclosures #2 & #3*)

If the parcel contains excess land or an uneconomic remnant you should review the procedures described in Chapter 3. INDOT will NOT acquire excess land or an uneconomic remnant without the owner providing certification that remediation has taken place or that the levels of contamination are below IDEM's enforcement action levels.

### **Lead Based Paint Disclosure Document**

The Residential Lead-Based Paint Hazard Reduction Act of 1992 directs the EPA and HUD to require disclosure of known information on lead based paint hazards before the sale or lease of most houses built prior to 1978. INDOT is purchasing the residential building for demolition purposes and therefore does not care whether there is lead based paint. However, in order to protect the Buyer's brokers licenses and to provide INDOT with knowledge, should we auction the building or lease it, the prudent course of action will be to obtain the disclosure form from the seller.

A disclosure form (attached) must be completed and signed by the seller of residential buildings meeting the following criteria.

1. If the building was constructed prior to 1978 a disclosure form is required.
2. Zero bedroom units (such as loft/efficiency/dormitory) and elderly housing are considered exempt from the disclosure.
3. The buyer will initial item "d" indicating that a lead information pamphlet was provided. This pamphlet is available at the Central Real Estate Office, and sellers should not be required to provide one to the State.
4. The buyer will initial item "f"/
5. The buyer will initial the form under the purchaser's acknowledgement and check the box waiving the 10 day inspection period.
6. The buyer will print "State of Indiana, by \_\_\_\_\_" in the purchaser's signature block.

Project:

Parcel:

Code:

**A WARNING TO THE PARTIES TO A TRANSFER OF PROPERTY:** It is highly unlikely that the single act of reading this document would be found to constitute Aall appropriate inquiry into the previous ownership and uses of the property≅ so as to protect you against liability under the Ainnocent purchaser≅ provision of the Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601(35)(B). You are strongly encouraged not only to read this document carefully but also to take all other actions necessary to the exercise of due diligence in your inquiry into the previous ownership and uses of the property.

**ENVIRONMENTAL DISCLOSURE DOCUMENT FOR  
TRANSFER OF REAL PROPERTY**

The following information is provided  
under IC 13-25-3, the Responsible  
Party Transfer Law.

For Use By County  
Recorder=s Office

County:

Date:

Doc. No.:

Vol.:

Page:

Rec=d. By:

## PLEASE PRINT

**1. PROPERTY IDENTIFICATION**

A. Address of Property:  
Street  
City or Town  
Tax Parcel Identification No. Township  
(Key Number):

**B. Legal Description:**

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

Enter or attach complete legal description in this area:

Please refer to the attached Exhibit A.

**LIABILITY DISCLOSURE**

Transferors and transferees of real property are advised that their ownership or other control of such property may render them liable for environmental cleanup costs whether or not they caused or contributed to the presence of environmental problems in association with the property.

**C. Property Characteristics:**

Lot Size \_\_\_\_\_ Acreage \_\_\_\_\_

Check all types of improvement and uses that pertain to the property:

- \_\_\_\_\_ Apartment building (6 units or less)  
\_\_\_\_\_ Commercial apartment (over 6 units)  
\_\_\_\_\_ Store, office, commercial building  
\_\_\_\_\_ Industrial building  
\_\_\_\_\_ Farm, with buildings  
\_\_\_\_\_ Other (*Specify*)

**II. NATURE OF TRANSFER**

- |   | Yes   | No    |
|---|-------|-------|
| A. (1) Is this transfer by deed or other instrument of conveyance of fee title to property? | _____ | _____ |
| (2) Is this transfer by assignment of over 25% of beneficial interest of a land trust?      | _____ | _____ |
| (3) A lease exceeding a term of 40 years?   | _____ | _____ |
| (4) A collateral assignment of beneficial interest?   | _____ | _____ |
| (5) A installment contract for the sale of property?  | _____ | _____ |
| (6) A mortgage or trust deed?   | _____ | _____ |
| (7) A lease of any duration that includes an option to purchase?                            | _____ | _____ |

**B. (1) Identify Transferor:**

Name and Current Address of Transferor

Name and Address of Trustee

Trust No.

*If this is a transfer of beneficial interest of a land trust.*

- (2) Identify person who has completed this form on behalf of the Transferor and who has knowledge of the information contained in this form:

Name and Address, Position (*if any*)

Telephone No.

**C. Identify Transferee:**

Indiana Department of Transportation  
100 North Senate Avenue  
Indianapolis, Indiana 46204-2217

### III. ENVIRONMENTAL INFORMATION

#### A. Regulatory Information During Current Ownership

1. Has the transferor ever conducted operations on the property which involved the generation, manufacture, processing, transportation, treatment, storage, or handling of Ahazardous waste~~s~~, as defined by IC 13-7-1? This question does not apply to consumer goods stored or handled by a retailer in the same form and approximate amount, concentration, and manner as they are sold to consumers, unless the retailer has engaged in any commercial mixing (other than paint mixing or tinting of consumer sized containers), finishing, refinishing, servicing, or cleaning operations on the property.

Yes

No

2. Has the transferor ever conducted operations on the property which involved the processing, storage, or handling of petroleum, other than that which was associated directly with the transferor's vehicle usage?

Yes

No

3. Has the transferor ever conducted operations on the property which involved the generation, transportation, storage, treatment, or disposal of Ahazardous waste~~s~~, as defined in IC 13-7-1?

Yes

No

4. Are there any of the following specific units (operating or closed) at the property that are used or were used by the transferor to manage hazardous wastes, hazardous substances, or petroleum?

Yes      No

Landfill

\_\_\_\_\_

Surface Impoundment

\_\_\_\_\_

Land Treatment

\_\_\_\_\_

Waste Pile

\_\_\_\_\_

Incinerator

\_\_\_\_\_

Storage Tank (Above Ground)

\_\_\_\_\_

Storage Tank (Underground)

\_\_\_\_\_

Container Storage Area

\_\_\_\_\_

Injection Wells

\_\_\_\_\_

Wastewater Treatment Units

\_\_\_\_\_

Septic Tanks

\_\_\_\_\_

Transfer Stations

\_\_\_\_\_

Waste Recycling Operations

\_\_\_\_\_

Waste Treatment Detoxification

\_\_\_\_\_

Other Land Disposal Area

\_\_\_\_\_

If there are **AYes** answers to any of the above items and the transfer of property that requires the filing of this document is other than a mortgage or collateral assignment of beneficial interest, you must attach to the copies of this document that you file with the county recorder and the department of environmental management a site plan that identifies the location of each unit.

5. Has the transferor ever held any of the following in regard to this real property?

Yes No

(A) Permits for discharges of wastewater to waters of Indiana

\_\_\_\_\_

(B) Permits for emissions to the atmosphere.

\_\_\_\_\_

(C) Permits for any waste storage, waste treatment, or waste disposal operation.

\_\_\_\_\_

6. Has the transferor ever discharged any wastewater (other than sewage) to a publicly owned treatment works?

\_\_\_\_\_

7. Has the transferor been required to take any of the following actions relative to this property?

\_\_\_\_\_

(A) Filed an emergency and hazardous chemical inventory form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11022).

\_\_\_\_\_

(B) Filed a toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023).

\_\_\_\_\_

8. Has the transferor or any facility on the property or the property been the subject of any of the following state or federal government actions?

(A) Written notification regarding known, suspected, or alleged contamination on or emanating from the property.

\_\_\_\_\_

(B) Filing an environmental enforcement case with a court or the solid waste management board for which a final order or consent decree was entered.

\_\_\_\_\_

(C) If the answer to question (B) was Yes, then indicate whether or not the final order or decree is still in effect for this property.

\_\_\_\_\_

9. Environmental Releases During Transferor's Ownership.

(A) Has any situation occurred at this site which resulted in a reportable Arelease of any hazardous substances or petroleum as required under state or federal laws?

\_\_\_\_\_

(B) Have any hazardous substances or petroleum which were released come into direct contact with the ground at this site?

\_\_\_\_\_

If the answers to questions (A) and (B) are Yes, have any of the following actions or events been associated with a release on the property?

- ☐ Use of a cleanup contractor to remove or treat materials including soils, pavement, or other surficial materials?
- ☐ Assignment of in-house maintenance staff to remove or treat materials including soils, pavement, or other surficial materials?
- ☐ Sampling and analysis of soils?
- ☐ Temporary or more long term monitoring of groundwater at or near the site?
- ☐ Impaired usage of an on-site or nearby water well because of offensive characteristics of the water?
- ☐ Coping with fumes from subsurface storm drains or inside basements?
- ☐ Signs of substances leaching out of the ground along the base of slopes or at other low points on or immediately adjacent to the site?

- (C) Is there an environmental defect (as defined in IC 13-7-22.5-1.5) on the Property that is not reported under question (A) or (B)?

Yes No

\_\_\_\_\_

If the answer is Yes, describe the environmental defect:

10. Is the facility currently operating under a variance granted by the commissioner of the Indiana Department of Environmental Management?
11. Has the transferor ever conducted an activity on site without obtaining a permit from the U.S. Environmental Protection Agency, the Commissioner of the Department of Environmental Management, or another administrative agency or authority with responsibility for the protection of the environment, when such a permit was required by law?

Yes No

\_\_\_\_\_

\_\_\_\_\_

If the answer is Yes, describe the activity:

12. Is there any explanation needed for clarification of any of the above answers or responses?



**B. Site Information Under Other Ownership or Operation**

1. Provide the following information about the previous owner or about any entity or person to whom the transferor leased the property or with whom the transferor contracted for the management of the property:

Name:

Type of business or property usage: \_\_\_\_\_

2. If the transferor has knowledge, indicate whether the following existed under prior ownership, leaseholds granted by the transfer, or other contracts for management or use of the property.

	Yes	No
Landfill	_____	_____
Surface Impoundment	_____	_____
Land Treatment	_____	_____
Waste Pile	_____	_____
Incinerator	_____	_____
Storage Tank (Above Ground)	_____	_____
Storage Tank (Underground)	_____	_____
Container Storage Area	_____	_____
Injection Wells	_____	_____
Wastewater Treatment Units	_____	_____
Septic Tanks	_____	_____
Transfer Stations	_____	_____
Waste Recycling Operations	_____	_____
Waste Treatment Detoxification	_____	_____
Other Land Disposal Area	_____	_____

**IV. CERTIFICATION**

- A. Based on my inquiry of those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true and accurate.

**TRANSFEROR:**

- B. This form was delivered to me with all elements completed on \_\_\_\_\_ 19

**TRANSFeree:** \_\_\_\_\_  
Land Agent for the Indiana Department of Transportation

**NOTARY'S CERTIFICATE**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) SS:

Subscribed and sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_, 19 \_\_\_\_\_.

My commission expires: \_\_\_\_\_

My county of residence is: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed) Notary Public

**NOTARY'S CERTIFICATE**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) SS:

Subscribed and sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_, 19 \_\_\_\_\_.

My commission expires: \_\_\_\_\_

My county of residence is: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed) Notary Public

INDIANA DEPARTMENT OF TRANSPORTATION  
INDIANAPOLIS, INDIANA 46204-2249  
INTER-DEPARTMENT COMMUNICATION

## MEMORANDUM

TO: Kevan McClure, Manager  
Buying Section

FROM: Harold Noel  
Acquisition Specialist

DATE: June 6, 1995

RE: Project: ST-024-8(N)  
Parcel: 123  
Code: 3456  
Road: State Road 34  
County: Switzerland  
Owner: Meers, Megan M.

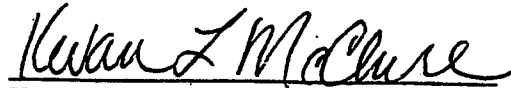
This parcel contains an Indiana Environmental Disclosure Document indicating the owner knows of no underground storage tanks. Although the owner knows of tanks, this property was reportedly an old gas station.

On May 16, 1995, I made a site inspection of this property to see if there were any signs of soil contamination. I found none. I then proceeded to the offices of Environmental Response of the Department of Environmental Management, where I reviewed their leaking underground storage tank (LUST) and spill files. Upon review of these files I found no record of underground storage tanks at the above property.

I also reviewed the project correspondence file and found no reports on any testing that had been done at this parcel by the Environmental Section.

In view of the above, I recommend this parcel be processed for payment.

THIS RECOMMENDATION APPROVED :



Kevan L. McClure, Manager  
Buying Section

HEN/clm  
xc: Records

## INDIANA DEPARTMENT OF TRANSPORTATION

INDIANAPOLIS, INDIANA 46204-2249

## INTER-DEPARTMENT COMMUNICATION

## MEMORANDUM

TO: Kevan McClure, Manager  
Buying Section

FROM: Kenneth Grantham  
Acquisition Specialist

DATE: August 30, 19 95

RE: Project: IR-220-5(R)  
Parcel: 12  
Code: 2525  
Road: SR 52  
County: Madison  
Owner: Amoco Oil Co.

The owner of this parcel has refused to complete an Indiana Environmental Disclosure Document.

It is the opinion of the owner's attorney that the Responsible Party Transfer law does not require an EDD for the sale of an area used for gasoline sales but not containing a UST.

An EDD was requested because the area of acquisition is a part of an operating gas station.

On August 12, 19 95, I made a site inspection of this property to see if there were any signs of soil contamination. I found none. I then proceeded to the offices of Environmental Response of the Department of Environmental Management, where I reviewed their leaking underground storage tank (LUST) files. Upon review of these files I found no evidence that there is or has been a leak of hazardous substance at this site.

I have checked the correspondence files and not found a Preliminary Site Investigation report.

In view of the above, I recommend this parcel be processed for condemnation.

THIS RECOMMENDATION APPROVED :

Kevan L. McClure  
Kevan L. McClure, Manager  
Buying Section

LAI/clm

xc: Records

## INDIANA DEPARTMENT OF TRANSPORTATION

INDIANAPOLIS, INDIANA 46204-2249

## INTER-DEPARTMENT COMMUNICATION

## MEMORANDUM

TO: Buying Staff and all Fee Buyers

FROM: Kevan L. McClure, Manager  
Buying Section

DATE: November 6, 1996

The Residential Lead- Based Paint Hazard Reduction Act of 1992 directs the EPA and HUD to require disclosure of known information on lead-based paint hazards before the sale or lease of most houses built prior to 1978. The intent of this law is to give notice of the sellers' knowledge, if any, of the existence of lead-based paint to prospective purchasers/lessees. The purchaser has a 10 day window after notification to test for lead presence, at their own expense. This day 10 period will be waived by the buyer on the behalf of INDOT. **INDOT is purchasing the residential building for demolition purposes and therefore does care whether there is lead paint.** However, in order to protect your brokers' licenses and to provide INDOT with knowledge, should we auction the building or lease it, the prudent course will be to obtain the disclosure from the seller.

A disclosure form (attached) must be completed and signed by the seller of residential buildings meeting the following criteria.

1. The disclosure will be completed for all deeds signed after December 5, 1996 and placed in the parcel as item six, the same as if it were an EDD.
2. If the building was constructed prior to 1978 a disclosure form is necessary. ( This means any building permit issued or construction begun prior to January 1, 1978.
3. Zero bedroom units (such as a loft/efficiency/or dormitory) and elderly housing are considered exempt from the disclosure.
4. The buyer will initial item "d" indicating that a lead information pamphlet was provided. This pamphlet is available at the Central Offices of Land Acquisition and sellers should not be required to provide one to the State.
5. The buyer will initial item "f".
6. The buyer will initial the form under the purchaser's acknowledgement and check the box waiving the 10 day inspection period.
7. The buyer will print "State of Indiana, by \_\_\_\_\_" in the purchaser's signature blank.

## Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

### Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

### Seller's Disclosure (initial)

\_\_\_\_ (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):

☐ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

☐ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

\_\_\_\_ (b) Records and reports available to the seller (check one below):

☐ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

☐ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

### Purchaser's Acknowledgment (initial)

\_\_\_\_ (c) Purchaser has received copies of all information listed above.

\_\_\_\_ (d) Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home*.

\_\_\_\_ (e) Purchaser has (check one below):

☐ Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

☐ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

\_\_\_\_ (f) Agent has informed the seller of the seller's obligations under 42 U.S.C. 4582(d) and is aware of his/her responsibility to ensure compliance.

### Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

Seller	Date
Agent	Date
Purchaser	Date

Seller	Date
Agent	Date
Purchaser	Date

## CHAPTER EIGHT

### SECURING

You have now reached the point in the acquisition process where you have addressed, to the best of your abilities, all the owners' concerns. The 25-day consideration period has expired and there are no other legitimate reasons for delaying the decision. You will contact the owner(s) and ask what he has decided. If he rejects the offer, identify his objections. If they cannot be resolved, explain the condemnation process. (*See Chapter 9, Condemnation*). **If he accepts the offer, you will verify the terms of the sale to ensure that there will be no misunderstandings when the documents are ready to be signed.** Verify that the owner won't retain anything or what items will be retained and their cost. If the acceptance is subject to any plan changes, verify that they are completed. Verify that the title has not been changed since negotiations began. Inform the owner of any actions he must take prior to accepting the offer, such as paying taxes or obtaining a retention performance bond. Verify the payment arrangements if there are multiple owners. You will need to know, in advance, how to prepare the claim voucher. **If the owner insists on preparing his own deed, you will need to obtain a draft copy for approval by the Acquisition Administrator before submitting it for payment.** Make whatever arrangements are the most expeditious and appropriate to obtain the necessary signatures. This may mean either a personal meeting(s) or a mailing(s). If you mail the securing documents they must be complete and ready to sign. Include detailed instructions and indicate where signatures are necessary and what documents need notarized. This will hopefully reduce the potential for the owners to make an error, thus voiding your documents. Proceed with the acquisition in the same aggressive manner in which negotiations were handled. If mailed, the acceptance package should be sent within two days. If a person has excessive time to deliberate an issue it will increase the likelihood that he will doubt his decision.

#### 8 (1)

##### **Document Preparation**

The documents necessary to convey the property always will include:

1. an instrument to convey, with complete legal descriptions attached
2. an acceptance of offer
3. a claim voucher (with attachment, if necessary) NOTE: A CLAIM VOUCHER, ACCEPTANCE AND W-9 ARE NOT NECESSARY FOR FREE DONATIONS
4. a W-9
5. a receipt of conveyance instrument
6. a real estate tax memo

Supporting documents which may be necessary to accompany the above:

7. appropriate affidavits
8. major or minor retention agreements
9. a Right of Entry
10. a Donation Agreement (with or without offer)

## 8 (2)

### **Conveyance Instrument**

A warranty deed (*see enclosure #1*) is the preferred instrument to be used for a fee simple conveyance. The deed format and description/land plat will be provided; however, the buyer is responsible for completing the granting clause, county and state of owners' residence, recitation of consideration, any necessary jurats, signature blocks, land/improvement and damage breakout, notarizing the signatures, applying a notary seal and dating the deed. The granting clause will cite the owners in the same format, exact spelling and interest by which they took title. Please note that an "also known as" (AKA) clause in the granting clause is acceptable to replace a "same person as" affidavit. The signature block and notary will follow the same recitation from the granting clause. The consideration will be dually cited with an actual written amount and a corresponding numerical figure. *The deed will be dated when it becomes a valid instrument -- as of the date of its final signature.* Do not date the deed or notary in anticipation of the owner signing. The owner may not keep the appointment or another issue may arise preventing the owner from signing at this meeting.

A **quitclaim deed** (*see enclosure #2*) may be used to release an interest of less than fee. Interests less than fee may also sign a warranty deed by citing their limited interest in the granting clause: " John Doe, Adult Male, Contract Buyer Interest Only".

A **right of way grant** will be used to acquire an interest of less than fee, such as a perpetual or temporary easement (*see enclosure #3*). The procedures for completing the instrument are the same as for the warranty deed. Temporary easements will be used when the right of way is for driveway construction, yard grading, building removal or other uses which will not substantially alter the terrain and use of the property or require future maintenance access. Perpetual easements will be used when future maintenance access will be necessary such as for construction of a legal drain or sewer.

**The buyer will place the original signed instrument and two copies, clearly indicated as a copy, in the parcel package and give one copy to the owner.**

### **Power of Attorney Clause**

If an attorney in fact will be signing the deed under his authority granted in a power of attorney you will add the following clause (see Chapter 2(7) for procedures):

*That the said \_\_\_\_\_, Attorney in Fact, is executing this deed in accordance with the terms of the Power of Attorney granted to him by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which Power of Attorney was duly recorded in Book No. \_\_\_\_\_ in the Office of the Recorder of \_\_\_\_\_ County, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.*



## **Retention Clause**

If the owner is retaining a major item (building or structure), you will add the following clause (see Chapter 5(5) for retention procedures):

**CLAUSE TO BE USED WHEN GRANTOR IS  
TO REMOVE BUILDING (IMPROVEMENT)  
FROM RIGHT OF WAY TO BE CONVEYED.  
(REMOVAL OF ENTIRE BUILDING)**

*Reserving, however, unto the Grantor the building \_\_\_\_\_  
(describe building), which is currently situated upon the aforescribed real estate and  
which shall be treated by the Grantee and Grantor hereto as personal property, and  
which building encroaching upon the aforescribed realty Grantor hereby covenants  
and agrees to remove from the aforescribed realty as consideration for part of the  
aforesaid amount paid by the Grantee to the Grantor for this conveyance. Such  
removal shall be accomplished by 60 days from the date payment is received for the  
above described realty and the Grantor shall post a performance bond (in the amount  
of \$ \_\_\_\_\_) in favor of the Grantee to insure completion of the removal of the  
aforesaid building which encroaches upon the aforescribed realty. If the aforesaid  
building is not removed within the aforementioned time limit then the Grantee, utilizing  
the funds from the aforesaid performance bond, shall be permitted to remove from the  
aforescribed realty, by destruction or otherwise, said building which encroaches  
upon the above conveyed real estate without incurring any liability whatsoever to the  
Grantor, his successors or assigns other than his liability and attendant legal  
obligation under and pursuant to the aforesaid performance bond.*

**CLAUSE TO BE USED WHEN GRANTOR IS  
TO REMOVE BUILDING (IMPROVEMENT)  
FROM RIGHT OF WAY TO BE CONVEYED.  
(REMOVAL OF PART OF BUILDING)**

*Reserving, however, unto the Grantor the building \_\_\_\_\_  
(describe building), which is currently situated upon part of the aforescribed real  
estate and which shall be treated by the Grantee and Grantor hereto as personal  
property, and which part of said building partially encroaching upon the  
aforescribed realty Grantor hereby covenants and agrees to remove from the  
aforescribed realty as consideration for part of the aforesaid amount paid by the  
Grantee to the Grantor for this conveyance. Such removal shall be accomplished by  
60 days from the date payment is received for the above described realty and the  
Grantor shall post a performance bond (in the amount of  
\$ \_\_\_\_\_) in favor of the Grantee to insure completion of the removal of the part of  
the aforesaid building which encroaches upon the aforescribed realty. If said part  
of the aforesaid building is not removed within the aforementioned time limit then the  
Grantee, utilizing the funds from the aforesaid performance bond, shall be permitted to  
remove from the aforescribed realty, by destruction or otherwise, said part of said  
building which encroaches upon the above conveyed real estate without incurring any  
liability whatsoever to the Grantor, his successors or assigns other than his liability  
and attendant legal obligation under and pursuant to the aforesaid performance bond.*

### **Interim Tax Clause**

If the owner is signing the deed during the real estate tax interim period (January 1 to March 1), you will add a notice of their agreement to pay the taxes to the claim voucher instructions and **add the following clause to the deed. "The Grantor(s) assume(s) and agree(s) to pay the 20\_\_ payable 20\_\_ real estate taxes on the above described real estate"**. (See Chapter 2 (24) for procedures of paying taxes).

### **8(3)**

#### **Acceptance of Offer**

An acceptance of offer ( page 4 of the offer letter, *see enclosure #4* ) will be prepared citing the owners in the same manner as used in the deed granting clause and signature block. Notarize and place the signed original in the parcel. If the owner request a copy he may either sign his copy in his offer letter or you will make arrangements to provide him a copy. If the owner retains any items or receives an administrative settlement, the acceptance will cite the full amount of the offer with an asterisk beside the offer amount. The mathematics deducting the retention value from the offer amount, or adding the settlement amount, arriving at the "total due owner" amount, will be placed in the available area left of the signatures.

If multiple owners will be signing the acceptance on different dates, you will use separate acceptance forms citing all owners as acceptors of the offer even though only part of them will sign this acceptance. This avoids any misconception that the parties signing each acceptance form will receive the total offer amount as opposed to their share of the total.

### **8(4)**

#### **Claim Voucher**

Prepare a claim voucher and a claim voucher attachment, if necessary. Depending upon the number of payees and their relationship, there are several different formats to use in the claim voucher preparation. Study the enclosure examples carefully to ensure that the voucher, attachment and W-9 are complete, accurate, and prepared in the proper format. If the voucher is rejected by the auditor, it will certainly delay the payment, and it may require another visit to the owner to obtain more signatures, forcing you to explain your error. Avoid this unpleasant situation by knowing which voucher format is appropriate for the proposed payment arrangements. The owners are not provided with a copy of the voucher. If the owner requests a copy, you will need to make a separate copy for him, as the pre-printed form does not have enough copies to provide one. Place the signed voucher in the parcel. **Note that the owner cannot sign the voucher on a date prior to the deed and acceptance, thus making a claim for payment prior to entering into the contract.**

All interests in a parcel will sign the claim voucher, either as a claimant or as a lienholder. This will include all ownership interests, lessees and mortgagees. If you have more signatures than blanks on which to sign or you want to mail a second voucher to a lienholder while the primary voucher is being signed, you may use additional claim vouchers which will have "for signature only" written across the Accounting Line Distribution area. This will prevent the additional vouchers from being processed, multiplying the payment, yet still providing the necessary signatures. The "signature only" vouchers will be placed behind the primary voucher in the parcel assembly.

The Corporate Authority Affidavit/Jurat establishes which officer has the authority to sign all documents relating to the transfer, including the claim voucher. The authorized officer(s) should also sign the voucher.

## CLAIM VOUCHER FORMATS

1. A single payee (and his mortgagee or county treasurer) or husband and wife (and their mortgagee or county treasurer). (*See enclosure #5, a standard voucher*). A mortgagee or county treasurer can be added as co-payees because they are not receiving taxable income from a sale of property. The income will be reported under the owner's social security number.

2. A single payee but more claimants than signature blanks available (*see enclosure #6, vouchers "for signature only"*). A mortgagee or county treasurer may still be added as a co-payee in this format.

3. Multiple payees who are not husband and wife (*see enclosure #7, claim voucher and attachment*). Using this format, each payee will submit a W-9, and taxes will be reported for each payee's social security number. A mortgagee or treasurer can still be added as a co-payee on each check.

4. A supplemental claim voucher to pay for services associated with the sale such as a mortgage release fee or attorney's fee for petitioning a court for approval of a sale by a guardian. The service provider will sign the voucher as a claimant (not a lienholder), a W-9, and Direct Deposit form because this will be taxable income. (*See enclosure #8*).

### 1. Claim Voucher Preparation

**"Vendor Information" block;** upper left corner. This area identifies the payee(s) and their address. This block is used for payment to an individual, husband and wife, or owner and his mortgagee or county treasurer. These are the **only** combinations of multiple payees which can be used in this block to obtain a single check. The first name listed will also be the person who signs the W-9 and uses his social security number or federal ID number. The payees should be cited with the exact same name as which they conveyed title. The payees' name and address must match the W-9. All vendor (payee) block names and addresses will be in capital letters. The payees' names will be reversed- last name first, followed by a comma, first name, then middle initial (if applicable) without any period after the initial. (*See enclosure #9, how to cite names on a claim voucher, U.S. Postal regulations*).

If you have multiple payees who are not married or a mortgagee/treasurer, you must use a claim voucher attachment. When using an attachment the payee name and address are not completed in the payee block. Instead, write "see attachment" through the payee block.

**"Agency Information" block;** upper right corner. Agency name line- print INDOT in all capital letters. Agency number line- print 800. Social Security & Federal ID number lines- print the owner's number in the appropriate line adding a "0" as the first number of the series and removing the dashes between sets of numbers. Example- 123-45-6789 becomes 0123456789.

**"Description" block;** middle right of page. Mark the appropriate check delivery box to either "send", (mail the check to the address in the payee block), or "yes", (you have printed special instructions on the back for check delivery). Complete the project and parcel number lines and print "code" and complete the code number in the open area below the parcel line.

*"Gross Amount"* line; middle left of page. Complete this line for the total amount to be paid by this voucher. If you are using the attachment, you will total all the separate checks to be processed under this voucher and enter the amount.

*"Claimants"* block; lower left corner. All parties of interest who signed any form of an instrument releasing an interest will sign the claim voucher. The first two lines are to be used when dealing with an entity, as opposed to an individual. Individuals will sign and date, exactly as cited on the deed and as payees, on the lower four lines with their names printed beneath their signatures. Note that the date of their signature cannot precede the date of the deed and acceptance as one cannot make a valid claim for payment until the debt is incurred. The buyer will sign and date on the "recommend approval" line with his name printed below his signature.

*"Lienholders"* block; lower right corner. Any mortgagee, county treasurer or other lienholder will sign in order to indicate their approval of payment to be made as shown in the payee block. The first line will cite the mortgagee institution's name and the second line will be used for the signature by the authorized officer. Print the officer's name below his signature. Remember that a mortgagee claiming a release fee will sign as a claimant, not lienholder.

*Backside of claim voucher.* Print the land/improvement and damage breakout at the bottom of the page on all parcels. If you have arranged for check delivery at a closing with the mortgagee, if you want to mail the check to a different address than was used in the payee block, or if mailing a service fee, print your detailed instructions on the back.

Delivery instructions (see enclosed sample) should include the names, addresses and telephone numbers of the parties to be contacted and what actions should be taken at the closing. If you are requesting a mortgage release be obtained, real estate taxes paid, or paying a service fee, you must be very specific, citing the account number and recording numbers of the mortgage to be released or the tax parcel key numbers to be paid. If an owner has refused to sign a deed before receiving payment and cannot be dissuaded (see 8(6), receipt of instrument), you will explain that a check cannot be processed by the Auditor without a signed deed as proof of debt due. He may sign the deed and hold the original until closing while a copy (clearly marked "copy") can be submitted with the claim voucher. The delivery instructions would then specify that the original deed be obtained.

**2. Multiple payees with a common payee on both checks.** If you want to make the same person a payee on two separate checks, such as a check to the owner and a second check to the owner and his mortgagee or county treasurer, **you must use two separate claim vouchers. Do not use the attachment.** Follow the standard voucher format for each check.

**3. Claim Voucher Attachment.** If you have multiple payees who are not husband and wife or their mortgagee or county treasurer, you must use the attachment. Write "see attachment" in the payee block of the voucher, total the amounts of the checks on the attachment and enter this amount in the "gross amount" line of the voucher.

Attachment form- purpose of payment section, upper left corner. Enter the total voucher amount land/improvement and damage breakout figures here instead of on the back of the voucher. Complete the project/parcel/code information in the upper right corner. Check the appropriate box for check delivery and specify the instructions for check delivery, if applicable. "SSN or FID"- enter the social security number or federal ID number in the same method as used on the claim voucher. Check the box to indicate a W-9 was obtained. Enter the payee name and address in the PAYEE block in the same method as used on the claim voucher. Have the owners initial to indicate their agreement to the amounts of the checks. Determine the land/improvement and damage breakout for the amount of each check and enter the amounts. Sign, date and print your

name beneath your signature. Place the attachment behind the claim voucher in the parcel assembly.

#### 8 (5)

##### **W-9**

**Request for Taxpayer Identification.** A signed and completed W-9 must be submitted for each check to be issued. As noted under claim voucher preparation, the first payee named on the voucher must sign a W-9 and release his Social Security number/federal ID number. You will specify either, "ADD", "CHANGE", or "DELETE" in red ink in the upper left corner, "**Location: 500**" and "**Function: 35**" in red ink in the upper right corner, and "**LAND ACQUISITION**" in the upper center area. Place the original and 2 copies in the parcel.  
(See enclosure #10).

#### 8 (6)

##### **Receipt of Conveyance Instrument**

(See enclosure #11). A receipt will be prepared in duplicate, giving the original to the owner and placing the copy in the parcel. If the owner objects to signing a deed prior to receiving payment, you should explain that the receipt is his proof of monies due him and that he will still own and use the property until payment is made and the deed recorded. The owner may initial this form to show receipt of a copy.

#### 8 (7)

##### **Real Estate Tax Memo**

(See enclosures #12 & #13). You should contact the county treasurer and verify the real estate taxes current, year-to-date for partial takings and paid for the entire year on total takings, prior to your appointment to sign the deed. (Review Chapter 2(25), real estate taxes). Enclosure #12 is a tax memo for acquisitions which occur after the tax statements are issued in March. Enclosure #13 is the tax memo to be used during the interim period before tax statements are issued. Complete the appropriate tax memo and give the original to the owner and place a copy in the parcel. The owner may initial this form to show receipt of a copy.

The following documents are to be prepared as the circumstances of the acquisition dictate.

#### 8(8)

##### **Affidavits**

Affidavits may be necessary to establish authority to convey or to clear title. See Chapter 2 for the use and preparation of affidavits. Affidavits which were not addressed in Chapter 2 include:  
1. "He/She is the same" affidavit- to be signed by a third party familiar with the owner, to clarify discrepancies in an owner's name as cited on different instruments. An "also known as" clause in the deed granting clause will perform the same function. (Enclosure 8-24).

2. "I am the same" affidavit- to be signed by the owner to clarify discrepancies in the owner's name as cited on different instruments. An "also known as" clause in the deed granting clause will perform the same function. (See enclosure 8-25).

3. Affidavit of Judgment Debtors- to be signed by an owner to clarify that a judgement against a person with the same name is in fact not against the owner. (See enclosure 8-26).

#### 8(9)

##### **Right of Entry**

Rights of Entry (see enclosure #14 ) are used to obtain immediate possession of a property due to delays in the negotiations or the need for emergency repairs to a road or bridge. They are not valid for takings with buildings or other structures such as signs in the take. The Right of Entry can be altered and special arrangements made with the owner to relocate the improvement in advance of accepting the offer with the prior approval of the Acquisition Administrator. It would be highly unlikely that such arrangements could be made for a building. Furthermore, the need to provide relocation benefits and asbestos inspections prior to demolition negate any time savings provided by a Right of Entry. The Right of Entry will provide INDOT with access to the property, as of the date specified on the document, **for purposes of construction as though the acquisition had been completed.** The consideration in this agreement is that INDOT will temporarily forego filing an eminent domain suit while attempting to resolve certain issues. **Neither party waives any rights either to refuse the offer, whether it has been made yet or not, or to pursue the taking and just compensation through eminent domain proceedings.** The Right of Entry will be treated as a conveyance instrument, to be signed by all appropriate parties of interest and their authorities to convey documented by the appropriate affidavit. Provide the owner with a copy of the signed document. Submit the signed original Right of Entry and 1 copy to the Buying Section clerk to be distributed to the Records Section and the appropriate INDOT District office. Place 1 copy in the parcel.

#### 8 (10)

##### **Authorization to Enter Private Property for Purposes of Drive/Sidewalk/Sewer Construction (Enclosure #15)**

This is a simple form of right of entry **to be used for temporary easements only**, when a plan change occurs after the parcel is secured or when the owner requests a plan change and it is undesirable to add a temporary easement. A set of Plan Station Numbers will identify the easement area. The buyer will follow the same procedures for signing, documenting the authority to convey and distribution of copies as are described under Right of Entry 8(9).

#### 8 (11)

##### **Donations**

When an owner desires to convey property without compensation, he will sign a Donation Agreement (with or without offer, as appropriate, *enclosures #16 and #17*) in conjunction with the deed. This document will waive the owners right to an appraisal and compensation. If the owner requests an appraisal and offer for income tax deduction purposes you will return the parcel to the Appraisal Section.

The owner will be cited and sign the same as on the deed. The Donation Agreement will replace an acceptance of offer in the parcel assembly. The owner will not sign a claim voucher or W-9 since no payment will be made. However, a claim voucher for \$0 will be placed in the parcel file in order to provide the division chief and Attorney General's Office a place to sign, approving the transfer.

## 8 (12)

### **Retention Agreement (Major retentions,)**

When the owner has determined that he will retain a major improvement, you will request a formal retention letter from the Property Management Unit. Place the formal letter in the parcel. Prepare the original retention agreement and 2 copies for the owner to sign (*see enclosure 18*). Give 1 signed copy to the owner, place 1 signed copy in the parcel. Take the original agreement and the bond to property management. They will give you a receipt for the bond, to be placed in the parcel along with a copy of the bond.

### **Calculating a new Land/Improvement & Damage breakout.**

You will subtract the retention value of the building/structure from the appraised value and convert the remainder to damages. Enter these revised Land/Improvement and Damage breakout on the deed. Example: A house is appraised at \$63,000 (no land, building value only) and you obtain a retention value of \$6,000. The total offer is for \$111,000 and contains \$32,000 in land and \$16,000 in damages.

\$63,000 appraised value  
- \$6,000 retention value  
= \$57,000 convert to damages  
+ \$16,000 appraised damages  
= \$73,000 new total damages  
+ \$32,000 appraised land value  
= \$105,000 new total value

See Chapter 5 (5) for policies and procedures.

## 8 (13)

### **Retention of Fixtures (Minor retentions, enclosure #19)**

Complete the Retentions of Fixtures and Parts form in duplicate, providing the owner a signed copy. You will note on the form when the retentions are to be removed. See Chapter 5 (5) for procedures. Give one copy to the owner and place the original in the parcel.

## 8 (14)

### **Notice of Items to be Treated as Personal Property**

(Enclosure #20)

This form will be completed in triplicate when items, major or minor, are retained. Place one copy in the parcel and submit two copies to the section clerk for distribution to the Relocation and Property Management units. Describe the items and specify the number of items retained.

## 8 (15)

### **Conveyance Agreement (Enclosure #21)**

This document, similar to the donation agreement, is used to waive an owner's right to an appraisal **when acquiring Access Rights Only**; no land conveyed. However, the **Conveyance Agreement does not waive compensation.**

INDOT occasionally will acquire access rights, without any land being acquired, in order to establish an access control line on multi-lane highways. Access rights are the rights of ingress and egress. An access control line will restrict the rights of ingress/egress to specific, approved drive

locations in order to improve the safety of the multi-lane design. While INDOT has statutory authority to control access by issuing drive permits, a warranty deed conveying access rights will create a covenant on the property which, if violated with an un-permitted drive, will create a title cloud at such time as the property is sold. This method of self-policing helps to limit the number of illegal drives constructed without permits. The covenant remains in effect for successors in title.

INDOT will review the parcel to determine whether any damage to the property will result from restricted access. If it is determined not to create a damage the parcel will be sent to the Buying Section without an appraisal. The project supervisor will prepare a market estimate of \$150.00 based on the INDOT Appraisal manual minimum offer guidelines. The buyer will contact the owner, making a written offer to purchase of \$150.00 and a **verbal** administrative offer to settle for a total of \$500. The \$500 is an arbitrary amount not based on an appraisal and represents a consideration for the imposition the buying process causes the owner. **It does not indicate any opinion of value of the rights to be acquired.** If the offer is refused the parcel will be condemned for \$150.

If the owner accepts the verbal \$500 offer he will sign a Conveyance Agreement in conjunction with a warranty deed, acceptance, voucher, W-9 and any necessary affidavits. The buyer will also clear liens on the title in the same manner as for land acquisitions. The Conveyance Agreement will be placed behind the deed in the parcel assembly. The agreement will cite the owner in the same manner as used on the deed.

## 8 (16)

### **Mortgage Release**

See Chapter 2 (24), enclosure 2-18 for mortgage release procedures.

## 8(17)

### **Purchase of Mobile Homes**

INDOT will occasionally purchase a mobile home which is either immovable or unrellocatable. Immovable means that the structure physically cannot be moved. Unrellocatable means that another site for the mobile home cannot be found or that the mobile home will not be accepted in another park due to its age or size. You will make the owner an offer in the same manner as a purchase of real property. You will obtain a quitclaim deed to release the interest of the leasehold. A month to month tenant's interest will not be released but terminated through a one month notice.

An immovable mobile home will be considered a land improvement to the real property. If the mobile home and the land are owned separately, separate parcels and offers will be made to each owner. If the mobile home owner rejects the offer the parcel will be condemned.

However, in the case of unrellocatable mobile homes, INDOT has no legal recourse to force the sale of personal property under eminent domain laws. You should inform the owner that if the offer is not accepted INDOT is obligated to provide relocation benefits for moving it. The owner may also be eligible for a replacement housing purchase payment under the relocation program for the purchase of a replacement site. The owner may submit a private appraisal just as he would if the purchase involved land. If no agreement on value can be reached, inform the owner the offer will be withdrawn, void it and place it in the parcel.

If the owner accepts the offer, he will sign and you will notarize the mobile home title and an "Indiana Department of Revenue Certificate of Gross Retail or Use Tax Paid on Purchase of Motor Vehicle" (*enclosure #22*). INDOT is a tax exempt agency and no gross retail tax is due on



the sale. The amount of the offer for the mobile home, separate from any land improvements such as a well, is the "amount subject to tax". Enter INDOT's tax exempt number (#005530822-0019) on the "Amount of tax collected" line. The Property Management Section will complete the "Exemption claimed" section. Place the mobile home title and certificate in the parcel in place of a deed. See Chapter 2(26) for information regarding personal property taxes on mobile homes.

Form WD-1  
8/98

**WARRANTY DEED**

Project:  
Code:  
Parcel:  
Page: 1 of 2

**THIS INDENTURE WITNESSETH, That** \_\_\_\_\_

the Grantor(s), of \_\_\_\_\_ County, State of \_\_\_\_\_ Convey(s) and Warrant(s) to the **STATE OF INDIANA**, the Grantee, for and in consideration of the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (of which said sum \$ \_\_\_\_\_ represents land and improvements acquired and \$ \_\_\_\_\_ represents damages) and other valuable consideration, the receipt of which is hereby acknowledged, certain Real Estate situated in the County of \_\_\_\_\_, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Right of Way Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference.

This conveyance is subject to any and all easements, conditions and restrictions of record.

The Grantor(s) hereby specifically acknowledge(s) and agree(s) that the Real Estate conveyed herein is conveyed in fee simple and that no reversionary rights whatsoever shall remain with the Grantor(s), or any successors in title to the abutting lands of the Grantor(s), notwithstanding any subsequent abandonment, vacation, disuse, nonuse, change of use, conveyance, lease and/or transfer by the Grantee or its successors in title, of a portion or all of the said Real Estate or any right of way, roadway or roadway appurtenances established thereupon. This acknowledgement and agreement is a covenant running with the land and shall be binding upon the Grantor(s) and all successors and assigns.

Interests in land acquired by the Indiana  
Department of Transportation  
Grantee mailing address:  
100 North Senate Avenue  
Indianapolis, IN 46204-2219  
I.C. 8-23-7-31

This Instrument Prepared By \_\_\_\_\_  
Attorney at Law

Project:  
Code:  
Parcel:  
Page: 2 of 2

IN WITNESS WHEREOF, the said Grantor(s) ha\_\_\_\_\_ executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)  
Signature Signature

\_\_\_\_\_  
Printed Name Printed Name

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)  
Signature Signature

\_\_\_\_\_  
Printed Name Printed Name

STATE OF \_\_\_\_\_:

SS:

COUNTY OF \_\_\_\_\_:

Before me, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the Grantor(s) in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_,

Signature\_\_\_\_\_

Printed Name\_\_\_\_\_

My Commission expires \_\_\_\_\_.

I am a resident of \_\_\_\_\_ County.

ENCLOSURE 8-2

Form QCD-1  
8/98

## QUIT CLAIM DEED

Project:  
Code:  
Parcel:  
Page: \_\_\_\_ of

THIS INDENTURE WITNESSETH, That \_\_\_\_\_

the Grantor(s), of \_\_\_\_\_ County, State of \_\_\_\_\_ Release(s) and Quit  
Claim(s) to the **STATE OF INDIANA**, the Grantee, for and in consideration of the sum of  
\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_ ) (of which said sum \$ \_\_\_\_\_ represents land and  
improvements and \$ \_\_\_\_\_ represents damages) and other valuable consideration, the receipt of  
which is hereby acknowledged, certain Real Estate situated in the County of \_\_\_\_\_, State of  
Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon  
the Right of Way Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference.

The Grantor(s) hereby specifically acknowledge(s) and agree(s) that the Real Estate conveyed herein is conveyed  
in fee simple and that no reversionary rights whatsoever shall remain with the Grantor(s), or any successors in title to the  
abutting lands of the Grantor(s), notwithstanding any subsequent abandonment, vacation, disuse, nonuse, change of use,  
conveyance, lease and/or transfer by the Grantee or its successors in title, of a portion or all of the said Real Estate or any  
right of way, roadway or roadway appurtenances established thereupon. This acknowledgement and agreement is a  
covenant running with the land and shall be binding upon the Grantor(s) and all successors and assigns.

Interests in land acquired by the Indiana  
Department of Transportation  
Grantee mailing address:  
100 North Senate Avenue  
Indianapolis, IN 46204-2219  
I.C. 8-23-7-31

This Instrument Prepared By \_\_\_\_\_

Attorney at Law

Project:  
Code:  
Parcel:  
Page: \_\_\_\_ of

IN WITNESS WHEREOF, the said Grantor(s) ha\_\_\_\_\_ executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)  
Signature Signature

\_\_\_\_\_  
Printed Name Printed Name

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)  
Signature Signature

\_\_\_\_\_  
Printed Name Printed Name

STATE OF \_\_\_\_\_:

SS:

COUNTY OF \_\_\_\_\_:

Before me, a Notary Public in and for said State and County, personally appeared

\_\_\_\_\_, the Grantor(s)  
in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be  
voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature

Printed Name

My Commission expires \_\_\_\_\_.

I am a resident of \_\_\_\_\_ County.

Rev. Form T-1  
4/23/02

**TEMPORARY HIGHWAY EASEMENT GRANT  
(FOR CONSTRUCTION OF A DRIVEWAY)**

**ENCLOSURE 8-3**

Project:  
Code:  
Parcel:  
Page: \_\_\_\_ of

**THIS INDENTURE WITNESSETH, That** \_\_\_\_\_

the Grantor(s), of \_\_\_\_\_ County, State of \_\_\_\_\_ Grant(s) to the  
STATE OF INDIANA, the Grantee, for and in consideration of \_\_\_\_\_ Dollars and NO/100  
(\$ \_\_\_\_\_) (of which said sum \$ \_\_\_\_\_ represents land improvements acquired  
and \$ \_\_\_\_\_ represents land temporarily encumbered and damages) and other valuable  
consideration, the receipt of which is hereby acknowledged, a temporary easement to enter upon and have possession of the  
Real Estate of the Grantor(s) for the purpose of constructing thereupon a driveway servicing to the Grantor(s) property to  
and from the highway facility known as \_\_\_\_\_ and as Project \_\_\_\_\_ which said Real Estate situated in the  
County of \_\_\_\_\_, State of Indiana, and which is more particularly described in the legal description(s) attached hereto as  
Exhibit "A" which is incorporated herein by reference, which said temporary easement shall be extinguished, become void  
and revert to the Grantor(s) and/or the Grantor(s) successor(s) in title upon completion of the said Project. Said  
extinguishment shall be evidenced by a release document, which shall be executed and recorded by the Grantee, at no cost to  
the Grantor(s).

Interests in land acquired by the Indiana  
Department of Transportation  
Grantee mailing address:  
100 North Senate Avenue  
Indianapolis, IN 46204-2219  
I.C. 8-23-7-31

This Instrument Prepared By \_\_\_\_\_

Attorney at Law

Project:  
Code:  
Parcel:  
Page: \_\_\_\_ of

Any and all timber, shrubbery, fences, buildings and any other improvements situated within the area of the temporary easement granted herein shall become the property of the State of Indiana except:

The said Grantor(s) acknowledge(s) that all provisions of this grant of temporary easement are as stated and set forth herein and that no verbal agreements or promises exist with respect thereto.

This temporary conveyance is subject to any and all easements, conditions and restrictions of record. However, the said Grantor(s), for the purpose of inducing the State of Indiana to accept this grant and to pay the hereinbefore referenced consideration, represent(s) that the Grantor(s) \_\_\_\_\_ the owner(s) in fee simple of the Real Estate and that there exist no encumbrances, conditions, restrictions, leases, liens (except current real estate taxes and assessments) of any kind or character which would be inconsistent with the temporary rights granted herein.

Project:  
Code:  
Parcel:  
Page: \_\_\_\_ of

IN WITNESS WHEREOF, the said Grantor(s) ha \_\_\_\_\_ executed this instrument this \_\_\_\_\_ day  
of \_\_\_\_\_.

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)  
Signature Signature

\_\_\_\_\_  
Printed Name Printed Name

\_\_\_\_\_(Seal) \_\_\_\_\_(Seal)  
Signature Signature

\_\_\_\_\_  
Printed Name Printed Name

STATE OF \_\_\_\_\_:  
COUNTY OF \_\_\_\_\_: SS:

Before me, a Notary Public in and for said State and County, personally appeared

\_\_\_\_\_, the Grantor(s)  
in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be  
voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_.

Signature

Printed Name

My Commission expires \_\_\_\_\_.

I am a resident of \_\_\_\_\_ County.



PROJECT F 278C (4) PARCEL 4

If you decide to accept the offer of \$ 565.00  
made by the Indiana Department of Transportation, sign your name below and mail this  
form to the address indicated above. An additional copy of this offer has been  
provided for your file.

## ACCEPTANCE OF OFFER

I (We), John H Doe and Mary Jane Doe, Ronald Wilson (contract buyer)

landowner(s) of the above described property or interest in property, hereby accept  
the offer of \$ 565.00 \*\* made by the Indiana Department of Transportation  
on this 15 th day of May, 19 95.

\*\* \$565.00 offer  
- 20.00 Retention

\$545.00 Total due owner

John H Doe  
John H. Doe

Mary Jane Doe  
Mary Jane Doe

Ronald Wilson

## NOTARY'S CERTIFICATE

STATE OF Indiana )  
 ) SS:  
COUNTY OF Marion )

Subscribed and sworn to before me this 15th day of May, 19 95.

My Commission Expires: 1-19-96

My County of Residence is: Marion

Ed Kelly  
(Signature)

Ed Kelly  
(Printed) NOTARY PUBLIC



# INDIANA DEPARTMENT OF TRANSPORTATION LAND ACQUISITION CLAIM-VOUCHER

State Form 9929 (R-6/8/99) Approved by State Board of Accounts - 1999

Instructions: This agency is requesting disclosure of your Social Security number in accordance with I.C. 4-1-8.

VENDOR INFORMATION				AGENCY INFORMATION			
DOCUMENT NUMBER		DATE (MM,DD,YY)		AGENCY NAME		AGENCY NUMBER	
800				INDOT		800	
VENDOR NAME				SOCIAL SECURITY NUMBER			
SCANK, BILLY D. AND BETTY J.				0123456789			
ADDRESS (NUMBER, STREET)				FEDERAL I.D. NUMBER			
TERRE HAUTE FIRST NATIONAL BANK							
8250 SOUTH U.S. 41				VENDOR NUMBER			
CITY		STATE		ZIP		PARCEL	
TERRE HAUTE, IN		47802				PROJECT	
						DES NUMBER	
						STP-291-1(002)	
AREA BELOW TO BE COMPLETED BY AGENCY							
DATE (MM,DD,YY)	AMOUNT	FUND	OBJECT	CENTER	DESCRIPTION / 1099		
				CHECK DELIVERY: SEND _____ SEE REVERSE			
GROSS AMOUNT \$105,000.00				DOC I.D.: PV 800			
INDOT ACCOUNTING LINE DISTRIBUTION							
LN	INVOICE NUMBER	FUND	AGCY	ORG	APPR UNIT	ACTV	OBJECT
01			800	0093	861611		
02			800	0093	861611		
03			800	0093	861611		
04			800	0093	861611		
CLAIMANTS				LEINHOLDERS			
Pursuant to the provisions and penalties of Indiana Code 5-11-10-1 I hereby certify that the foregoing Fund and Center is just and correct, that the amount claimed is legally due after allowing all just credits, and that no part of same has been paid. I also authorize payment to be made as indicated above.				I hereby sign this claim voucher as a leinholder and only certify to the extent of my interest therein and authorize payments to be made as indicated above:			
DATE				Terre Haute First National			
BUSINESS NAME				LEINHOLDER NAME			
9/1/01 Billy D. Scank				9/1/01 BY: [Signature]			
DATE				Date LEONARDO A. FISCHER			
9/1/01 Betty J. Scank				Printed Title			
DATE				Instrument Approved as to Form, preliminary only, Excepting Real Estate Description.			
DATE				DEPUTY ATTORNEY GENERAL			
DATE				DATE			
DATE				I certify that this claim is correct and valid and is a proper charge against the State Agency, Fund and Center indicated.			
Recommended Approval:				INDOT DIVISION OF ACCOUNTING AND CONTROL			
Denise McHenry				DATE			
ORIGINATOR Denise McHenry				Approved, Indiana Department of Transportation			
DATE				DATE			
DIVISION CHIEF				DIVISION CHIEF			
DATE				DATE			



Enclosure 8-6

INDIANA DEPARTMENT OF TRANSPORTATION  
LAND ACQUISITION CLAIM-VOUCHER

State Form 9929 (R-6/8/99) Approved by State Board of Accounts - 1999

Instructions: This agency is requesting disclosure of your Social Security number in accordance with I.C. 4-1-8.

VENDOR INFORMATION				AGENCY INFORMATION						
DOCUMENT NUMBER	C800			DATE (MM,DD,YY)	AGENCY NAME INDOT		AGENCY NUMBER 800			
VENDOR NAME SCANK, BILLY D. AND BETTY J.				SOCIAL SECURITY NUMBER 0123456789						
ADDRESS (NUMBER, STREET) TERRE HAUTE FIRST NATIONAL BANK				FEDERAL I.D. NUMBER						
8250 SOUTH U.S. 41				VENDOR NUMBER						
CITY	STATE		ZIP	PARCEL	PROJECT	DES NUMBER				
TERRE HAUTE, IN	47802			#40-4179	STP-291-1(002)					
AREA BELOW TO BE COMPLETED BY AGENCY										
DATE (MM,DD,YY)	AMOUNT		FUND	OBJECT	CENTER	DESCRIPTION / 1				
FOR SIGNATURE ONLY										
GROSS AMOUNT \$105,000.00				DOC I.D.: PV 800						
INDOT ACCOUNTING LINE DISTRIBUTION										
LN	INVOICE NUMBER	FUND	AGCY	ORG	APPR UNIT	ACTV	OBJECT	JOB/PROJECT NUMBER	PTY	AMOUNT
01			800	0093	861611					
02			800	0093	861611					
03			800	0093	861611					
04			800	0093	861611					
CLAIMANTS					LEINHOLDERS					
Pursuant to the provisions and penalties of Indiana Code 5-11-10-1 I hereby certify that the foregoing Fund and Center is just and correct, that the amount claimed is legally due after allowing all just credits, and that no part of same has been paid. I also authorize payment to be made as indicated above.					I hereby sign this claim voucher as a leinholder and only certify to the extent of my interest therein and authorize payments to be made as indicated above:					
DATE					Date					
BUSINESS NAME					LEINHOLDER NAME					
9/17/01 Billy D. Scank					Date					
9/17/01 Betty J. Scank					LEINHOLDER NAME					
DATE					Instrument Approved as to Form, preliminary only, Excepting Real Estate Description.					
DATE					DEPUTY ATTORNEY GENERAL					
DATE					I certify that this claim is correct and valid and is a proper charge against the State Agency, Fund and Center indicated.					
Recommended Approval:					INDOT DIVISION OF ACCOUNTING AND CONTROL					
Denise McHenry 9/10/01					DATE					
ORIGINATOR Denise McHenry					Approved, Indiana Department of Transportation					
Approved Division of Land Acquisition					DATE					
DIVISION CHIEF					DIVISION CHIEF					
DATE					DATE					



Enclosure 8-7

INDIANA DEPARTMENT OF TRANSPORTATION  
LAND ACQUISITION CLAIM-VOUCHER

State Form 9929 (R-6/8/99) Approved by State Board of Accounts - 1999

Instructions: This agency is requesting disclosure of your Social Security number in accordance with I.C. 4-1-8.

VENDOR INFORMATION				AGENCY INFORMATION						
DOCUMENT NUMBER	C800			DATE (MM,DD,YY)	AGENCY NAME INDOT		AGENCY NUMBER 800			
VENDOR NAME SEE ATTACHMENT				SOCIAL SECURITY NUMBER						
ADDRESS (NUMBER, STREET)				FEDERAL I.D. NUMBER						
CITY				VENDOR NUMBER						
STATE				PARCEL						
ZIP				PROJECT						
				DES NUMBER						
				#3 - 2876						
				ST-2938(4)						
AREA BELOW TO BE COMPLETED BY AGENCY										
DATE (MM,DD,YY)	AMOUNT	FUND	OBJECT	CENTER	DESCRIPTION / 1099					
GROSS AMOUNT \$5,000.00				DOC I.D.: PV 800						
INDOT ACCOUNTING LINE DISTRIBUTION										
LN	INVOICE NUMBER	FUND	AGCY	ORG	APPR UNIT	ACTV	OBJECT	JOB/PROJECT NUMBER	PRTY	AMOUNT
01			800	0093	861611					
02			800	0093	861611					
03			800	0093	861611					
04			800	0093	861611					
CLAIMANTS					LEINHOLDERS					
Pursuant to the provisions and penalties of Indiana Code 5-11-10-1 I hereby certify that the foregoing Fund and Center is just and correct, that the amount claimed is legally due after allowing all just credits, and that no part of same has been paid. I also authorize payment to be made as indicated above.					I hereby sign this claim voucher as a leinholder and only certify to the extent of my interest therein and authorize payments to be made as indicated above:					
DATE 9-14-01 BUSINESS NAME John A. Doe					Date First National Bank LEINHOLDER NAME					
DATE 9-14-01 John A. Doe					By: Bill Wilson LEINHOLDER NAME					
DATE Jane B. Doe					Date Printed Title VP.					
					Instrument Approved as to Form, preliminary only, Excepting Real Estate Description.					
DATE 9-14-01 Denise Johnson					DEPUTY ATTORNEY GENERAL DATE					
DATE Denise Johnson					I certify that this claim is correct and valid and is a proper charge against the State Agency, Fund and Center indicated.					
DATE										
Recommended Approval: William Montgomery					INDOT DIVISION OF ACCOUNTING AND CONTROL DATE					
William Montgomery 9-14-01					Approved, Indiana Department of Transportation					
ORIGINATOR DATE										
Approved Division of Land Acquisition										
DIVISION CHIEF DATE					DIVISION CHIEF DATE					

# INDIANA DEPARTMENT OF TRANSPORTATION LAND ACQUISITION CLAIM-VOUCHER ATTACHMENT

## PURPOSE OF PAYMENT

ENCLOSURE 8-7A  
\$ 5,000.00 - LAND AND IMPROVEMENTS

\$ 0 - DAMAGES

PROJECT: ST-2938(4)  
PARCEL: 3  
CODE: 28/6

CHECK DELIVERY:

☒ SEND

☐ INSTRUCTIONS:

DOCUMENT #	SS# OR FED. ID	U-9	PAYEE (VENDOR)	INITIAL	AMOUNT	FUND/OBJECT/CENTER
	0398762736	X	DOE, JOHN A DOE, JANE B	JAD JBD	L&I \$ 2,500.00 D \$ 0	
			902 Green St Danville, IN 46723		L&I \$ D \$	
	0328928726	X	JOHNSON, DENISE 3902 W. Brown Clermont IN 46407	DS	L&I \$ 2,500.00 D \$ 0	
					L&I \$ D \$	
					L&I \$ D \$	

W. Williams  
ORIGINATOR  
William Montgomery

5-10-85  
DATE



Enclosure 8-8

INDIANA DEPARTMENT OF TRANSPORTATION  
LAND ACQUISITION CLAIM-VOUCHER

ite Form 9929 (R-6/8/99) Approved by State Board of Accounts - 1999

Instructions: This agency is requesting disclosure of your Social Security number in accordance with I.C. 4-1-8.

VENDOR INFORMATION				AGENCY INFORMATION						
DOCUMENT NUMBER	300			DATE (MM,DD,YY)	AGENCY NAME INDOT		AGENCY NUMBER 800			
VENDOR NAME First National Bank				SOCIAL SECURITY NUMBER						
ADDRESS (NUMBER, STREET) 1300 N. 3rd St. Danville, IN 46345				FEDERAL I.D. NUMBER 0364758374						
VENDOR NUMBER										
TYPE	STATE	ZIP		PARCEL 6-3874	PROJECT ST-2534(3)	DES NUMBER				
AREA BELOW TO BE COMPLETED BY AGENCY										
DATE (MM,DD,YY)	AMOUNT	FUND	OBJECT	CENTER	DESCRIPTION / 1099 INC					
GROSS AMOUNT \$200.00				DOC I.D.: PV 800						
INDOT ACCOUNTING LINE DISTRIBUTION										
LN	INVOICE NUMBER	FUND	AGCY	ORG	APPR UNIT	ACTV	OBJECT	JOB/PROJECT NUMBER	PRTY	AMOUNT
01			800	0093	861611					
02			800	0093	861611					
03			800	0093	861611					
04			800	0093	861611					
CLAIMANTS				LEINHOLDERS						
Pursuant to the provisions and penalties of Indiana Code 5-11-10-1 hereby certify that the foregoing Fund and Center is just and correct, that the amount claimed is legally due after allowing all just credits, and that no part of same has been paid. I also authorize payment to be made as indicated above.				I hereby sign this claim voucher as a leinholder and only certify to the extent of my interest therein and authorize payments to be made as indicated above:						
First National Bank				Date LEINHOLDER NAME						
DATE 9/14/01 BUSINESS NAME Bill Wilson				Date LEINHOLDER NAME						
DATE By: Bill Wilson (Title) Vice Pres.				Instrument Approved as to Form, preliminary only, Excepting Real Estate Description.						
DATE				DEPUTY ATTORNEY GENERAL DATE						
DATE				I certify that this claim is correct and valid and is a proper charge against the State Agency, Fund and Center indicated.						
DATE				INDOT DIVISION OF ACCOUNTING AND CONTROL DATE						
Recommended Approval: Any Burger 9-14-01				Approved, Indiana Department of Transportation						
ORIGINATOR A.A. Any Buyer DATE				DIVISION CHIEF DATE						
Approved Division of Land Acquisition				DIVISION CHIEF DATE						
DIVISION CHIEF DATE				DIVISION CHIEF DATE						

## BUSINESSES

## 1. ABBREVIATIONS

a. Do not abbreviate. Spell out the full name.

Example - IN Off. Prod.... INDIANA OFFICE PRODUCTS  
Kim Asphlt Co..... KIM ASPHALT CO

Words at the end of the name that describe the business may be abbreviated.

Example - Company.. CO Incorporated.. INC  
Distributors.. DIS Association.. ASSN

There are many others. If they meet this condition, they may be abbreviated.

b. Do not use ampersands.

Example - Dun & Bradstreet.... DUN AND BRADSTREET

## 2. THE

If the word "the" is the first word in a vendor's name, please leave it out.

Example - The Box and One Company.. BOX AND ONE COMPANY

## 3. PERSON'S NAME

When a company is named after a person, submit it the way it is normally written.

Do not invert the first and last names.

Example - Robert R. James, Inc..... ROBERT R. JAMES, INC

## 4. INITIALS

a. Do not use initials unless the company is very well known by their initials.

Example - SRA.... SCIENCE RESEARCH ASSOCIATES  
IBM.... IBM  
AT & T.... AT AND T

b. If the name is not known, initials may be used.

Example - A.B. Dick Company.... A B DICK COMPANY

## 5. NUMBERS

Company names with numbers in them should be written using the numbers.

Example - Tenth Street Cleaners.... 10TH STREET CLEANERS  
One and Two Dance School.. 1 AND 2 DANCE SCHOOL

## 6. ORDER FROM COMPANIES

If a company is a division of a corporation, list the division that is ordered from, first.

Example - If ordering from "Ayerst Labs":

Whitehall Pharmaceuticals.... AYERST LABS, DIV  
Ayerst Labs Division WHITEHALL PHARMACEUTICALS

## 7. GOVERNMENTS AND PUBLIC INSTITUTIONS

These organizations should be formatted with the name of the city, county or state first. The name of the organization should follow.

Example - School Lunch Program, Lake Cty.....LAKE COUNTY SCHOOL  
LUNCH PROGRAM

## ADDRESSES

### 1. FORMAT

Addresses can be up to four lines including the vendor's name. Each line should not exceed 30 characters including spaces, periods, etc.

### 2. ABBREVIATIONS

a. Street names should always be spelled out. Directions in an address should be abbreviated as follows:

South....	S	North....	N	East....	E
Southeast....	S E	Northeast....	N E	West....	W
Southwest....	S W	Northwest....	N W		
Example -	518 South East Street....	518 S. East Street			

b. Street, road, highway and et cetera may be abbreviated if they are not part of the street name.

Example - 500 Broadstreet Street.... 500 BROADSTREET ST

c. Cities should be spelled out.

Example - Indpls., IN.... INDIANAPOLIS, IN

d. All states should be abbreviated using the standard 2 digit abbreviation.

### 3. BOXES

a. Post Office boxes should be written as follows:

Example - Post Office Box 457.... PO BOX 457

b. Rural box numbers should always be written with the rural route or its equivalent in front of it.

Example - Rural Route 2, Box 45.... RR2, BOX 45

If the address is a rural box number, do not write it as a post office box number and vice versa.



## Section A -- VENDOR STANDARDS

These vendor standards have been created to comply with the U.S. Postal regulations and to hopefully expedite the mailing process. The next few pages give explanations and examples of how these names should appear on the new forms. In most examples, the name listed to the right in CAPITAL letters is now it should appear on the new forms.

## PEOPLE

## 1. FORMAT

The format for reporting the names of people will be:

**SURNAME - FIRST NAME - MIDDLE INITIAL**

Example - Wendell A. Ladner....**LADNER, WENDELL A**

a. Names with a hyphen are considered as one name. Married women who use both surnames come under this rule.

Example - John Mellen-Hunt.... **MELLEN-HUNT, JOHN**  
 Lauren B. Wehner-Evans.... **WEHNER-EVANS, LAUREN B**

b. Prefixes for the last name should be treated as part of the name that follows.

Example - Richard Van Arsdale.... **VAN ARSDALE, RICHARD**  
 Mary De La Croix.... **DE LA CROIX, MARY**

c. Estates and guardians should be reported using the name of the estate or the individual as the first name.

Example - Tom Thacker, Trustee.... **TOM THACKER, TRUSTEE**  
 Estate of David Cowens.... **COWENS, DAVID, ESTATE OF**

d. Jr. and Sr. should come after the middle initial, if any.

Example - Richard A. Mount Sr.... **MOUNT, RICHARD A SR**

e. All other forms of address and titles should also come after the middle initial, if any.

Example - Mr. Paul Silas.... **SILAS, PAUL MR**  
 Dr. Thomas C. McMillen.... **MCMILLEN, THOMAS C DR**  
 George I. Gervin CPA.... **GERVIN, GEORGE I CPA**  
 Senator Steve P. Chubin.... **CHUBIN, STEVE P SENATOR**

## 2. ABBREVIATIONS

a. Spell out the full name. No abbreviations.

Example - Fred Lewis.... **LEWIS, FREDERICK**  
 S. Jones.... **JONES, SAMUEL**

Exception: If an abbreviation is part of the name, use the abbreviation.

Example - John A. St. Clair.... **ST CLAIR, JOHN A**

b. Use the correct name.

Example - If the name is Bob.... Do not use **ROBERT**  
 If the name is Beth.... Do not use **ELIZABETH**

Add

Location 500  
Function 35

Substitute Form

## Taxpayer Identification Number Request

State of Indiana

W-9

Enclosure 8-10

DO NOT send to IRS

or Type	Return to address below  STP-2938(4) #3 2876
Legal Name (OWNER OF THE EIN OR SSN AS NAME APPEARS ON IRS OR SSN RECORDS) DO NOT ENTER THE BUSINESS NAME OF A SOLE PROPRIETORSHIP ON THIS LINE  John A. Doe	
Trade Name Complete only if doing business as (D/B/A)	
Remit Address  3 Any Street, Indianapolis, IN 46204	
chase Order Address- Optional	

Check legal entity type and enter 9 digit taxpayer Identification Number (TIN) below: (SSN = Social Security Number, EIN = Employer Identification Number)	SSN or EIN must be for legal name above.
<input checked="" type="checkbox"/> Individual (Individual's SSN) 123-45-6789	
<input type="checkbox"/> Sole Proprietorship (Owner's SSN or Business EIN) SSN _____ EIN _____	
<input type="checkbox"/> Partnership <input type="checkbox"/> General <input type="checkbox"/> Limited (Partnership's EIN) _____	
<input type="checkbox"/> Estate / Trust Note: Show the name and number of the legal trust, or estate, not personal representatives. (Legal Entity's EIN) _____	
<input type="checkbox"/> Other (Limited Liability Company, Joint Venture, Club, etc) (Entity's EIN) _____	
<input type="checkbox"/> Corporation Do you provide legal or medical services? <input type="checkbox"/> Yes <input type="checkbox"/> no (Corp's EIN) _____	
<input type="checkbox"/> Government (or Government operated entity) (Entity's EIN) _____	
<input type="checkbox"/> Organization Exempt from Tax under Section 501(a) Do you provide medical services? <input type="checkbox"/> Yes <input type="checkbox"/> no (Org's EIN) _____	
<input type="checkbox"/> Check here if you do not have a SSN or EIN but have applied for one.	

Under penalties of perjury, I certify that:

- (1) The number listed on this form is my correct Taxpayer Identification Number (or I am waiting for a number to be issued to me) AND
- (2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified me that I am no longer subject to backup withholding (does not apply to real estate transactions, mortgage interest paid, and acquisition or abandonment of secured property, contribution to an individual retirement arrangement (IRA), and payments other than interest and dividends.)

CERTIFICATION INSTRUCTIONS - You must cross out item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because of under reporting interest or dividends on your tax return.

THE IRS DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISION OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.

I am a U.S. person (including a U.S. resident alien).

NAME (Print or Type) John A. Doe	TITLE _____
AUTHORIZED SIGNATURE John A. Doe	DATE 9-14-01 PHONE 317-234-5678

Agency _____	Agency use only 1099 <input type="checkbox"/> Yes <input type="checkbox"/> No	Approved by: _____
--------------	---	--------------------

~~INDIANA~~ DEPARTMENT OF TRANSPORTATION  
LAND ACQUISITION DIVISION

RECEIPT OF CONVEYANCE INSTRUMENT

The undersigned being a Land Agent for the Department of Transportation of the State of Indiana, does hereby acknowledge receipt this date of one Warranty Deed, signed by Robert Simmons and Lucille Simmons  
(Conveyance Instrument)

and conveying certain rights, title and/or interest in real estate located in Warrick County to the State of Indiana for highway purposes and which is identified as Parcel # 7 on Highway Project # F-005-2(6).

I further acknowledge that said instrument has been executed and acknowledged by the grantors without payment by me of any consideration and that I am transmitting such instrument to the appropriate highway authority for review subject to approval.

It is understood and agreed that this conveyance instrument will either be returned to the grantor not approved or the State of Indiana through its proper agencies will cause such instrument to be processed for payment in the amount of \$ 32,000.00.

INDIANA DEPARTMENT OF TRANSPORTATION

Steve Pentney 6-15-95  
Land Agent Date



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

EVAN BAYH, Governor  
FREDERICK C. P'POOL, Commissioner

Writer's Direct Line:

TO: Bob Fox  
276 S. Grelch  
Monon, IN

Project: ST- 3765(7)  
Parcel: 5  
Code: 2765  
Date: 9-22-1995

SUBJECT: Real Estate Taxes

The address (or location) of the above referenced real estate is:

276 S. Grelch Monon, IN

Said real estate is needed (~~as a total acquisition~~) (as a substantial partial acquisition) by the State of Indiana for highway purposes.

Please be advised the real estate taxes for the year 1994 payable in the year 1995 WILL NOT be paid by the State of Indiana as part of this transaction. These taxes (and all unpaid taxes for previous years) are your obligation as you had possession of this property during the entire year of 1994 and previous years (if applicable).

As part of this purchase it will be necessary for you to provide tax receipts for the year 1994 payable 1995 (and any other unpaid years) or have a part of the proceeds of this sale paid to your county treasurer to cover this tax obligation.

Juan Taylor  
Buyer

Juan Taylor



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

EVAN BAYH, Governor

STAN C. SMITH, Commissioner

Writer's Direct Line:

to: John Wilson256 Fox LaneGreensburg, INProject: ST- 2365Parcel: 6Code: 3765Date: 2-22-95

SUBJECT: Real Estate Taxes

The address (or location) of the above referenced real estate is:

Northside of SR56 3 miles south of SR35

Said real estate is needed (as a total acquisition) (~~XXXXXXXXXXXX~~  
~~XXXXXXXXXXXX~~) by the State of Indiana for highway purposes.

Please be advised the real estate taxes for the year 1994  
 payable in the year 1995 were not paid by you as part of this  
 transaction. The reason they were not paid is that the new tax rates and  
 the amount to be paid were not known at the time of this transaction.

Please be advised that when you receive the tax statements for the May  
 and November installments the State of Indiana will not assume the  
 responsibility for paying these taxes as you had possession of the property  
 during the entire year of 1994.

Harold Noel  
 Buyer  
 Harold Noel

RIGHT OF ENTRY  
(BARE LAND ONLY)

WHEREAS, the Department of Transportation of the State of Indiana is contemplating construction work on State Road # 35 which will require acquisition of right of way across certain lands of the undersigned in Cass County, Indiana.

AND WHEREAS, it is desirable that such construction be commenced as rapidly as possible, but that certain questions have arisen in the negotiations between the State of Indiana, and the undersigned which will require additional consideration by both parties, and is desired that the said questions be resolved before further negotiations are had, but that it is desirable that the construction of the highway project known as STP-3672(3) not be delayed.

NOW THEREFORE, be it agreed by and between the undersigned and the State of Indiana that for and in consideration of the temporary foregoing of the exercise of the right of eminent domain by the State of Indiana and the further benefits that may be derived by both parties by an extended period in which to resolve questions and continue negotiations, that the undersigned does hereby grant a right of entry on and across its lands affected by the above project which are more particularly described in a deed designating required right-of-way referred to as parcel 6 which proposed deed and description are by reference incorporated herein and made a part hereof.

That this right of entry shall permit the State of Indiana through its employees, agents and contractors to proceed with the construction of the highway and to do such acts thereon as would be permitted if the right of way had actually been obtained. That the undersigned waives no right to make claim for any damages for any acts which are outside the right of way limits and which would normally be the basis for an action for damages.

Neither party hereto waives any of the rights in the event negotiation fails, and it is necessary that the property be condemned.

IN WITNESS THEREOF the undersigned has hereto set his hand and seal this 9th day of March 1995

Norma Coffman  
Norma Coffman

Jean Coffman  
Jean Coffman

STATE OF INDIANA )  
 ) SS  
County of Marion )

Before me, a Notary Public in and for said County and State personally appeared Norma Coffman and Jean Coffman  
\_\_\_\_\_  
who acknowledged the execution of the above and foregoing instrument to be his voluntary act and deed and for the purposes stated therein.

Edmund Kelly  
Notary Public (Signature)

Edmund Kelly  
Notary Public (Printed Name)

My Commission expires 2-24-96

My County of residence is Marion

This instrument prepared by INDOT'S ATTORNEY

# AUTHORIZATION FOR ENTRY UPON PRIVATE PROPERTY FOR DRIVEWAY CONSTRUCTION

Indiana Department of Transportation  
 Project ST-135-1(B)  
 Parcel 151  
 Road US 50  
 County Jackson  
 Code 2856

This instrument is authorization and permission for the State of Indiana through its employees, agents, and contractors for the project designated above to enter upon my property for the purpose of constructing the private approach thereon.

Location of Approach: STA 103 + 14 Rt.

Length of Approach beyond right-of-way line: 4 feet

Grade of Approach: Less than 10 %

Robert Ames  
 Signature

Robert Ames  
 Printed Name (Adult Husband)

Janet Ames  
 Signature

Janet Ames  
 Printed Name (Adult Wife)

STATE OF INDIANA )  
 )SS:  
 COUNTY OF Jackson )

Before me, a Notary Public in and for said County and State personally appeared Robert Ames and Janet Ames, who acknowledged the truth of the statements in the foregoing agreement on this 7th day of June, 1995.

Ronald Bosworth  
 Notary Public (Signature)

Ronald Bosworth  
 Notary Public (Printed)

My Commission expires May 9, 1997

My County of Residence is Jackson



STATE OF INDIANA )

COUNTY OF Perry )

)SS:

Project: ST-639-2(C)  
Parcel: 6  
Code: 2631**DONATION AGREEMENT (WITH OFFER)**

I (we)- the undersigned property owner(s) acknowledging the fact the I (we) have been offered \$ 850.00, based upon an approved appraisal of the fair market value of the subject real estate as just compensation, nevertheless, desire to donate the right o way and will execute the necessary conveyance instruments to place title of said right of way in the State of Indiana.

This offer to the State of Indiana is made without any coercive action of any nature this 5th day of April, 19 95.

Rick Meers  
Signature

Rick Meers  
Printed Name Adult Male

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Cheryl Meers  
Signature

Cheryl Meers  
Printed Name Adult Female

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Before me, a Notary Public in and for said County and State personally appeared

Rick Meers, Adult Male, and Cheryl Meers who acknowledged the truth of the Adult Female

statements in the foregoing affidavit on this 5th day of April,

19 95.

Vicki Richardson  
Notary Public (Signature)

Vicki Richardson  
Notary Public (Printed)

My Commission expires August 3, 1995

My County of Residence is Marion

STATE OF I N D I A N A )

)SS:

Project: NH-192-0(6)Parcel: 18COUNTY OF Greene )Code: 2346**DONATION AGREEMENT (WITHOUT OFFER)**

I-(we) the undersigned property owner(s) hereby convey to the State of Indiana ~~(property)~~ (an easement) as described on the attached copy of a ~~(Warranty Deed)~~ (Right of Way Grant) for \$1.00 and/or other good and valuable considerations, without any undue coercive action of any nature, fully aware that we are entitled to just compensation based upon an appraisal.

I-(we) waive such appraisal rights and do hereby convey the ~~(property)~~ (easement) this 4th day of July, 19 95.

Bob Senecker  
Signature

Bob Senecker  
Printed Name Adult Husband

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Mary Senecker  
Signature

Mary Senecker  
Printed Name Adult Wife

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Before me, a Notary Public in and for said County and State personally appeared Bob Senecker and Mary Senecker, Adults,  
Husband and Wife \_\_\_\_\_, who acknowledged the truth of the

statements in the foregoing agreement on this 4th day of  
July, 19 95.

Steve Penturf  
Notary Public (Signature)

Steve Penturf  
Notary Public (Printed)

My Commission expires March 3, 1996

My County of Residence is Putnam

Revised 9-14-95

PROJECT: F-1763(W)

PARCEL(S): 36

COUNTY: Wayne

RECEIPT NO. \_\_\_\_\_

GRANTOR: Jim Roberts, et ux

AGREEMENT TO RETAIN AND REMOVE A BUILDING

THIS AGREEMENT, made this 18th day of January, 19 94,  
by and between the State of Indiana, acting by and through the Indiana Department of  
Transportation, hereinafter sometimes referred to as STATE, and Jim Roberts and Mary Ellen  
Roberts, Adults, Husband and  
whose address is 3987 West Covenanter St.,  
in the city of Richmond, County of Wayne,  
State of Indiana, Social Security Number 213-42-1979,  
hereinafter sometimes referred to as OWNER.

The parties to this Agreement, in consideration of the mutual covenants and  
stipulations set out herein, agree as follows:

1. That the STATE requires certain real estate described, to wit:

SEE EXHIBIT "A"

hereinafter sometimes referred to as PREMISES:

2. That on said PREMISES there now exists certain property to which OWNER now claims a legal or equitable interest with said property being described as follows:

2-car garage

hereinafter sometimes referred to as PROPERTY.

3. Both parties stipulate to the need for the removal of the PROPERTY from the PREMISES, and the OWNER wishes to retain possession of the PROPERTY.

4. OWNER hereby understands and agrees to remove the PROPERTY from the PREMISES within 60 calendar days from the receipt of payment for the aforementioned real estate. Said removal process includes, but is not limited to all combustible materials and other rubbish such as shrubbery and trees, which have been cut or uprooted to facilitate moving operations. Furthermore, OWNER, is to leave, if anything, only concrete flatwork on the PREMISES. Any excavation to facilitate moving of improvements or removal of shrubbery, trees or fences, shall be refilled and leveled during the time period stated above. Said removal process includes not only the items categorized as PROPERTY but the representative items listed in paragraph 2 and all items which are a natural consequence of the removal process or are reasonable foreseeable by the parties.

5. OWNER hereby understands and agrees that the removal of the retained structure necessitates following the Asbestos NESHAP Inspection and Removal

Requirements (see attachment). INDOT shall not be liable for any fees pertaining to the inspection or the removal of asbestos from the retained structure, or any fines levied for failure of required notifications.

6. Forty-eight hours prior to removal of the structure, the OWNER shall contact the Construction Engineer in the Indiana Department of Transportation's Greenfield District office. Phone (317) 242-1234.

All work must be done under the supervision of the Construction Engineer. Before the faithful performance bond described in paragraph 8 will be released, the Construction Engineer must approve the site from where the structure has been removed and sign the release from attached to this agreement.

The OWNER shall be responsible for backfilling the crawl space and/or basement according to the following specifications:

- a. Remove all fixtures and appliances such as furnace, water heater, etc., from basement or cellar. Concrete and other debris shall not be discarded in basement.
- b. All drains shall be sealed with concrete.
- c. Basement floor shall be broken.
- d. Basement or crawl space walls shall be demolished and removed down to a point two feet below ground level or subgrade elevation, whichever is lower.
- e. Basement or crawl space shall be backfilled with "B" Borrow (Pit run gravel).

f. Basement must be filled same day structure is removed.

7. OWNER shall only have the right to remove the PROPERTY and related matters stated herein, and shall enjoy no other rights upon the PREMISES.

8. In consideration for STATE's potential loss, damages and dilemma of having OWNER refuse or neglect to remove the PROPERTY from the PREMISES, the parties hereby mutually understand and agree that OWNER shall tender and STATE shall accept from OWNER the sum of \$1,000.00, which sum shall be in an amount sufficient to permit STATE to retain adequate services to perform the stated removal of the PROPERTY from the PREMISES, and payment for other damages occasioned by and because of non-performance of OWNER by cashier's check, certified check, or other means acceptable to the STATE, payable to the Indiana Department of Transportation, on the execution date of this Agreement. Upon the faithful performance of OWNER of his duties under this Agreement, said sum shall be returned to him on or before 30 calendar days following the time period stated above in paragraph 4.

9. It is expressly understood and agreed between the parties that OWNER shall not commence the removal process until the tender pursuant to paragraph 8 has been accepted by the STATE.

10. If OWNER refuses or neglects to remove the PROPERTY from the PREMISES within the stated time periods herein, OWNER shall be considered defaulted on the Agreement, shall forfeit the entire sum stated in paragraph 8 as actual and liquidated damages, and the STATE shall have the expressed authority to remove the PROPERTY from the PREMISES without incurring any liability to OWNER.

11. If OWNER refuses or neglects to perform any other stated duties under the terms of this Agreement, then the terms of paragraph 10 shall govern such breach of this Agreement.

12. OWNER understands and agrees to assume and does hereby assume all liability for injuries to persons or property while removing the items referenced in paragraph 2, and agrees to save the STATE harmless from and against any and all claims for damages emanating therefrom.

13. OWNER is solely responsible for securing all necessary zoning, building, and moving permits and licenses. The STATE accepts no responsibility for the requests or granting of these permits of licenses.

IN WITNESS WHEREOF, the said parties have caused their signatures to be affixed by the appropriate officials or person(s) on the date first written above in the city of Richmond, State of Indiana.

OWNER

BY: Jim Roberts Jim Roberts  
(Written Signature)

Mary Ellen Roberts Mary Ellen Roberts  
(Printed Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

STATE

BY: John Graham  
(Written Signature)

John Graham  
(Printed Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

STATE OF INDIANA )

COUNTY OF Wayne )

Before me the undersigned, a Notary Public for Wayne  
County, State of Indiana, personally appeared  
Jim Roberts and Mary Ellen-and- Roberts, adults, husband and wife being  
first duly sworn by me upon their oath, say(s) that the terms and  
conditions in the foregoing Agreement are true.

Signed and sealed this 18th day of January 19 94.

John Graham  
(Written Signature)  
Notary Public

John Graham  
(Printed Signature)

My Commission Expires: March 9, 1996

County of Residence: Marion



Project: \_\_\_\_\_

Parcel: \_\_\_\_\_

County: \_\_\_\_\_

### CONSTRUCTION ENGINEER'S CERTIFICATION

I hereby approve the work done to remove said structures from the right of way and backfill the crawl space/or basement according to the following specifications:

- a. All appliances and debris shall be removed and disposed of.
- b. All drains shall be sealed with concrete..
- c. Basement floor shall be broken.
- d. Basement or crawl space walls shall be demolished and removed down to a point two feet below ground level or subgrade elevation, whichever is lower.
- e. Basement or crawl space shall be backfilled with "B" Borrow (pit run gravel).
- f. Basement must be filled the same day the house is removed.

\_\_\_\_\_  
Construction Engineer (Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Construction Engineer (Printed Name)

\_\_\_\_\_  
District

INDIANA DEPARTMENT OF TRANSPORTATION PROJECT F-276(7)  
 LAND ACQUISITION DIVISION PARCEL 9  
 CODE 2876

RETENTION OF OWNERSHIP (FIXTURES AND PARTS)

1. Address (or location) of Property in Right-of-Way: 1849 N. US 421, Westfield, IN
2. Describe Buildings or Structures, etc., in the Right-of-Way: 1 story ranch with detached garage
3. The undersigned property owners (grantors) hereby agree that the following described fixtures and parts shall be treated as personal property by the grantors and the grantee (State of Indiana) and the grantors hereby agree to retain ownership of said fixtures and parts at the salvage values indicated below, and hereby agree that the sum of such values shall be deducted from the State's offer for this right-of-way, and agree to move said fixtures and parts from the right-of-way, within the time prescribed, and at the owners own cost and expense, and agree that security against any theft, loss, damage, or destruction of the items is the grantors responsibility, and further agree that there shall be no refunds.

QUANTITY	DESCRIPTION OF FIXTURES AND PARTS RETAINED	SALVAGE VALUES
<u>1</u>	<u>kitchen cabinet</u>	<u>\$75.00</u>
<u>1</u>	<u>water heater</u>	<u>\$20.00</u>
	<u>items to be removed within 30 days of receipt of payment</u>	
	<u>or prior to moving from house, whichever is later.</u>	
	<u>TOTAL SUM</u>	<u>\$95.00</u>

4. I, the undersigned Land Agent, have determined the foregoing salvage values and have acquired this parcel on the basis that the said owners are authorized to retain ownership of the said fixtures and parts as agreed above.

DATE: 9-16-95

SIGNATURE OF LAND AGENT:

Ronald Turner  
 Ronald Turner

SIGNATURE OF OWNERS:

Kathy Simmons  
 Kathy Simmons

# NOTICE OF ITEMS TO BE TREATED AS PERSONAL PROPERTY

Project: ST-2768(3)  
 Code: 2987  
 Parcel: 2  
 County: Warrick

Notice to  
 Relocation Section  
 Property Management Section

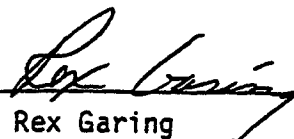
The following items have been retained at salvage value as personal property, the offer adjusted accordingly, and are not eligible for moving allowance:

## ITEM

Quantity	Description
1	ceiling fan
1	bath vanity

The following items which have been appraised as real estate have been re-classified as personal property and the offer adjusted accordingly. These items are deemed to be eligible for moving costs provided that the cost of moving does not exceed their value.

Quantity	Description	Appraised Value
	NA	

Buyer   
 Rex Garing

xc: Control  
 Parcel File  
 Relocation

STATE OF INDIANA )

Project: RS-6304(A)

)SS:

Parcel: 2COUNTY OF Vigo )Code: 2632**AGREEMENT OF CONVEYANCE (ACCESS RIGHTS ONLY)**

I (we) the undersigned property owner(s) hereby agree to convey to the State of Indiana property access rights as described on exhibit "A" attached hereto and made a part hereof, for the sum of \$ 500.00, without any undue coercive action of any nature, fully aware that we are entitled to an offer based upon an appraisal.

I (we) waive such appraisal rights and do hereby execute a deed to convey the necessary property access rights for \$ 500.00, on the 6th day of May, 19 95.

Greg Sacks  
Signature

\_\_\_\_\_  
Signature

Greg Sacks  
Printed Name (Adult Male)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

Before me, a Notary Public in and for said County and State personally appeared Greg Sacks (Adult Male), who acknowledged the truth of the statements in the foregoing affidavit on this 6th day of May, 19 95.

Harold Noel  
Notary Public (Signature)

Harold Noel  
Notary Public (Printed)

My Commission expires January 2, 1998

My County of Residence is Parke

enclosure 8-22

Indiana Department of State Revenue  
Indianapolis, Indiana 46204CERTIFICATE OF GROSS RETAIL OR USE TAX PAID ON  
PURCHASE OF MOTOR VEHICLE

Name of Seller Robert and Teresa Hubble		Registered Retail Merchant Certificate No. N/A	
Address of Seller 5185 Salt Creek Trail		Street or Rural Route N/A	
City or Town Portage	State IN	Zip Code 46368	
Name of Purchaser State of Indiana / Indiana Department of Transportation			
Address of Purchaser 100 North Senate Ave.			
City or Town Indianapolis	State IN	Zip Code 46204	
Mfgs. I.D. No. 61FG7TDBQ10777	Model No. 48	Year 60	Make DTR
		Type HC	
Total Selling Price (All delivery, make ready, repair or other costs prior to delivery of the vehicle must be included in the selling price. Federal Excise tax is excluded.) \$			
Subtract: Trade-in Allowance (Vehicles Only) \$			
Describe Make _____ Model _____ Year _____ I.D.# _____ N/A			
Amount Subject to Tax \$ 800.00			
Amount of Tax Collected (5% of amount subject to tax) Exempt# 992916812-0019 \$			
I hereby certify that the information shown on this certificate is true and correct, and the amount of Gross Retail or Use Tax was collected from the purchaser.			
Date <u>July 9</u> , 19 <u>92</u> x <u>Robert Hubble</u> <u>Teresa Hubble</u> Robert Hubble Teresa Hubble			
Individual, Partner, Agent, Office			
IF EXEMPTION IS CLAIMED, PURCHASER MUST SIGN THE FOLLOWING STATEMENT			
I hereby certify that the above vehicle is exempt from Sales or Use Tax under Paragraph <u>1</u> on reverse side hereof.			
Date _____, 19 _____ Purchaser			
RRMC Number _____ PSCI or ICC Number _____ SEE REVERSE SIDE FOR COMPLETE INSTRUCTIONS			

**EXAMPLE- Government Agency**

***Granting Clause***

**WARRANTY DEED**

**THIS INDENTURE WITNESSETH, that**

**the Board of Park Commissioners of the City of Hammond**

***Signature Block***

**IN WITNESS WHEREOF, the said grantor has hereunto set its hand, this  
12th day of June, 1995**

**The Board of Park Commissioners of the City of Hammond**

**By: John Doe, President**

**By: Ron Fellows, Mayor**

***Notary***

**STATE OF INDIANA, Lake County, ss:**

**Before me, the undersigned, a notary public in and for said County and  
State, this 12th day of June, 1995 personally appeared the within named  
Board of Park Commissioners of the City of Hammond by John Doe, its  
President and Ron Fellows, Mayor of the City of Hammond, Grantor in the  
above conveyance, and acknowledge the same to be its voluntary act and  
deed, for the uses and purposes herein mentioned.**

**I have hereunto subscribed my name and affixed my official seal.  
My Commission expires January 1, 1998                      Signature, Notary Public  
County of Residence Marion                      Robert Morgan Printed Name  
SEAL**

***\*(Please note that this deed would be accompanied by a resolution or  
certified copy of the minutes of the board meeting documenting the vote to  
accept the offer and authorizing the president to sign on behalf of the  
board.)***

**EXAMPLE- Power of Attorney**

***Granting Clause***

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, that  
John Doe attorney in fact for Mike Smith

**(Insert POA clause cited in Chapter 8(2))**

***Signature Block***

IN WITNESS WHEREOF, the said grantor has hereunto set his hand, this  
12th day of June, 1995

Mike Smith by John Doe, Attorney in Fact

or

John Doe, Attorney in Fact for Mike Smith

***Notary***

STATE OF INDIANA, Marion County, ss:

Before me, the undersigned, a notary public in and for said County and  
State, this 12th day of June, 1995 personally appeared the within named  
John Doe, attorney in fact for Mike Smith, Grantor in the above  
conveyance, and acknowledge the same to be its voluntary act and deed, for  
the uses and purposes herein mentioned.

I have hereunto subscribed my name and affixed my official seal.

My Commission expires January 1, 1998

County of Residence Marion

SEAL

Signature, Notary Public

Robert Morgan Printed Name

*\*(Please note that while it is legal and acceptable for the attorney in fact  
to either sign the grantors name "by his attorney in fact", it is preferable  
to sign his own name " as attorney in fact for...").*

**EXAMPLE- Estate**

***Granting Clause***

**WARRANTY DEED**

**THIS INDENTURE WITNESSETH, that**

**the Estate of Paul Knox, C-92883 Marion County Circuit Court by its personal representative Ronald Wilson**

***Signature Block***

**IN WITNESS WHEREOF, the said grantor has hereunto set its hand, this 12th day of June, 1995**

**The Estate of Paul Knox By: Ronald Wilson, Personal Representative**

***Notary***

**STATE OF INDIANA, Marion County, ss:**

**Before me, the undersigned, a notary public in and for said County and State, this 12th day of June, 1995 personally appeared the within named Estate of Paul Knox by Ronald Wilson its personal representative. Grantor in the above conveyance, and acknowledge the same to be its voluntary act and deed, for the uses and purposes herein mentioned.**

**I have hereunto subscribed my name and affixed my official seal.**

**My Commission expires January 1, 1998**

**Signature, Notary Public**

**County of Residence Marion**

**Robert Morgan Printed Name**

**SEAL**

***\*(Please note that court approval of the sale must be documented; see chapter 2(4)).***



**EXAMPLE- Limited Partnership with a corporation as general partner**

***Granting Clause***

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, that  
Metro Graphics, a limited partnership

***Signature Block***

IN WITNESS WHEREOF, the said grantor has hereunto set its hand, this  
12th day of June, 1995

Metro Graphics, a limited partnership

By: John Doe, Inc., its general partner

By: John Doe, its President

Attest: Mary Doe, its Secretary

***Notary***

STATE OF INDIANA, Johnson County, ss:

Before me, the undersigned, a notary public in and for said County and State, this 12th day of June, 1995 personally appeared the within named Metro Graphics, a limited partnership by its general partner John Doe, Inc. by John Doe, its President and attest by Mary Doe, its Secretary, Grantor in the above conveyance, and acknowledge the same to be its voluntary act and deed, for the uses and purposes herein mentioned.

I have hereunto subscribed my name and affixed my official seal.

My Commission expires January 1, 1998

Signature, Notary Public

County of Residence Marion

Robert Morgan Printed Name

SEAL

*\*(Please note that John Doe will sign a partnership authority affidavit to establish the authority to act as general partner of Metro Graphics. Mary Doe will sign a corporate authority affidavit for John Doe, Inc. establishing John Doe's authority to act for the corporation.)*

**EXAMPLE- Tenants by the entirety**

***Granting Clause***

**WARRANTY DEED**

**THIS INDENTURE WITNESSETH, that**

**John H. Doe and Mary Jane Doe, Adults, Husband and Wife**

***Signature Block***

**IN WITNESS WHEREOF, the said grantors have hereunto set their hands,  
this 12th day of June, 1995**

**John H. Doe, Adult Husband**

**Mary Jane Doe, Adult Wife**

***Notary***

**STATE OF INDIANA, Johnson County, ss:**

**Before me, the undersigned, a notary public in and for said County and State, this 12th day of June, 1995 personally appeared the within named John H. Doe and Mary Jane Doe, Adults Husband and Wife, Grantors in the above conveyance, and acknowledge the same to be their voluntary act and deed, for the uses and purposes herein mentioned.**

**I have hereunto subscribed my name and affixed my official seal.**

**My Commission expires January 1, 1998**

**Signature, Notary Public**

**County of Residence Marion**

**Robert Morgan Printed Name**

**SEAL**

**EXAMPLE- Tenants in common with an also known as clause**

***Granting Clause***

**WARRANTY DEED**

**THIS INDENTURE WITNESSETH, that**

**John H. Doe, Adult Male, also known as John Henry Doe, and Bob Smith, Adult Male**

***Signature Block***

**IN WITNESS WHEREOF, the said grantors have hereunto set their hands, this 12th day of June, 1995**

**John H. Doe, Adult Male**

**Bob Smith, Adult Male**

***Notary***

**STATE OF INDIANA, Johnson County, ss:**

**Before me, the undersigned, a notary public in and for said County and State, this 12th day of June, 1995 personally appeared the within named John H. Doe, Adult Male and Bob Smith, Adult Male, Grantors in the above conveyance, and acknowledge the same to be their voluntary act and deed, for the uses and purposes herein mentioned.**

**I have hereunto subscribed my name and affixed my official seal.**

**My Commission expires January 1, 1998**

**Signature, Notary Public**

**County of Residence Marion**

**Robert Morgan Printed Name**

**SEAL**

**EXAMPLE- Corporation**

***Granting Clause***

**WARRANTY DEED**

**THIS INDENTURE WITNESSETH, that**

**John Doe, Inc., an Indiana corporation**

***Signature Block***

**IN WITNESS WHEREOF, the said grantor has hereunto set its hand, this  
12th day of June, 1995**

**John Doe, Inc., an Indiana Corporation**

**By: John Doe, its President**

**Attest: Mary Doe, its Secretary**

***Notary***

**STATE OF INDIANA, Johnson County, ss:**

**Before me, the undersigned, a notary public in and for said County and  
State, this 12th day of June, 1995 personally appeared the within named  
John Doe, Inc. by John Doe, its President and attest by Mary Doe, its  
Secretary, Grantor in the above conveyance, and acknowledge the same to  
be its voluntary act and deed, for the uses and purposes herein mentioned.**

**I have hereunto subscribed my name and affixed my official seal.**

**My Commission expires January 1, 1998**

**County of Residence Marion**

**SEAL**

**Signature, Notary Public**

**Robert Morgan Printed Name**

**EXAMPLE- Trust with contract buyers**

***Granting Clause***

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, that First National Bank as trustee under the terms of a trust known as Trust 8924 dated August 6, 1993 and Tom Kendall, Adult Male, contract buyer's interest only

***Signature Block***

IN WITNESS WHEREOF, the said grantors have hereunto set their hands, this 12th day of June, 1995

First National Bank as trustee under the terms of trust #8924 dated August 6, 1993

By: John Doe, its Trust Officer

Tom Kendall, Adult Male, contract buyer

***Notary***

STATE OF INDIANA, Johnson County, ss:

Before me, the undersigned, a notary public in and for said County and State, this 12th day of June, 1995 personally appeared the within named First National Bank as trustee of trust #8924 by its trust officer, John Doe and Tom Kendall, Adult Male, contract buyer, Grantors in the above conveyance, and acknowledge the same to be their voluntary acts and deed, for the uses and purposes herein mentioned.

I have hereunto subscribed my name and affixed my official seal.

My Commission expires January 1, 1998

County of Residence Marion

SEAL

Signature, Notary Public

Robert Morgan Printed Name

*\*(Please note that the trust officer's authority to act for the trust and the bank must be documented by a trustee's authority affidavit and either a corporate authority affidavit or a certified copy of a standing resolution.)*

STATE OF INDIANA )  
 )SS:  
COUNTY OF Lake )

Project: NH-3690 (2)  
Parcel: 9  
Code: 2999

**"HE/SHE IS THE SAME" AFFIDAVIT**

I, Robby Gordon, the undersigned affiant, being  
duly sworn my oath, hereby say that I knew in (his) (~~her~~) lifetime a person named  
Arnold Gordon and I further say that said person has  
been known as and is one and the same person as Arnold B. Gordon

Further affiant sayeth not.

Robby Gordon  
(Affiant's Signature)

Robby Gordon  
(Affiant's Name Printed)

Before me, a Notary Public in and for said County and State personally appeared  
Robby Gordon, who acknowledged the truth of the  
statements in the foregoing affidavit on this 3rd day of August,  
19 95.

Ted Elmore  
Notary Public (Signature)

Ted Elmore  
Notary Public (Printed Name)

My Commission expires April 12, 1997

My County of Residence is Hendricks

STATE OF INDIANA )  
 )SS:  
COUNTY OF Marion )

enclosure 8-25  
Project: F-198-2 (C)  
Parcel: 31  
Code: 2692

**"I AM THE SAME" AFFIDAVIT**

I, Rick Hendricks, the undersigned affiant, being  
duly sworn upon my oath, hereby swear and affirm that I have been known as and that I am one  
and the same person as Richard D. Hendricks

Further affiant sayeth not.

Rick Hendricks  
(Affiant's Signature)

Rick Hendricks  
(Affiant's Name Printed)

*Before me, a Notary Public in and for said County and State personally appeared*  
Rick Hendricks, *who acknowledged the truth of the statements*  
*in the foregoing affidavit on this* 3rd *day of* May, 1995.

Leonard Divita  
Notary Public (Signature)

Leonard Divita  
Notary Public (Printed Name)

*My Commission expires* April 1, 1996

*My County of Residence is* Marion

STATE OF INDIANA )  
COUNTY OF Allen )

Project: ST-4932(B) enclosure 8-26  
Parcel: 7  
Code: 1895

**AFFIDAVIT OF JUDGEMENT DEBTORS**

I, Vernon Moore, the undersigned affiant, being first duly sworn upon my oath, hereby depose and say:

That I am the owner of the fee simple title to the following described real estate located in Allen County, Indiana, to wit:

A part of the NW 1/4 of the SW 1/4 of Section 10, Township 12 N, Range 6E, containing 89 acres, more or less

and that the following judgement appears of record in the Office of the Clerk of Allen County, Indiana to wit:

Judgement docket 9, page 111 in favor of Bob Lee in the amount of \$2,195.00, filed June 1, 1990.

Affiant does further say that (he) (she) was not a party defendant in the cause action, and that (he) (she) is not one and the same person as the Vernon Moore against whom said judgement was rendered.

Vernon Moore  
(Affiant's Signature)

VERNON MOORE  
(Affiant's Printed Name)

*Before me, a Notary Public in and for said County and State personally appeared*

Vernon Moore, who acknowledged the truth of the statements in the foregoing affidavit on this 9th day of June, 1995.

Joan Garard  
Notary Public (Signature)

Joan Garard  
Notary Public (Printed Name)

My Commission expires October 6, 1995

My County of Residence is Marion



## CHAPTER NINE

### CONDEMNATION

#### 9 (1)

##### **Administrative Settlement**

When normal negotiations reach an impasse, in some cases a negotiated settlement may be indicated. The owner may indicate that he will sell for a certain amount above the fair market value established by the state review appraiser. He may point out certain evidence that he believes justifies and supports his request for the increase. If the buyer feels that a condemnation suit can be avoided and the request for increase is in the best interest of the state to settle for the higher figure, due to the evidence presented or past experiences of higher awards from local county courts, the buyer should compile all the information in his Buyer's Report which should be turned into the Buying Section manager. The buyer will cite the amount for which the owner will settle, and document his reasons for recommending an administrative settlement. It is the buyer's responsibility to thoroughly review the acquisition and offer to determine whether our appraised value is accurate, fair and reasonable. Are the mathematics correct? Are the comparable sales and adjustments reasonable? Did the owner pay a higher unit value than we are offering? Has he explained his calculations and do you understand where the specific differences lie between our offer and his opinion of value? Is there a reasonable alternative to the appraiser's approach to the problem?

Should the Buying Section manager concur with the buyer that an administrative settlement is in the best interest of the state, the buyer will prepare an Administrative Settlement Memo (see enclosure #1) citing the reasons for the settlement. Submit the memo for approval and typing. The manager will sign the memo and transmit his recommendation to the Land Acquisition Division chief, who must give full consideration to all pertinent information. This includes all available appraisals, including owner's appraisal; the approved estimate of just compensation; recent court awards for similar type properties; the buyer's recorded information; the range of probable testimony as to fair market value should condemnation be filed; the estimate of trial cost considered in conjunction with other information and the opinion of legal counsel when appropriate. If the Land Acquisition Division chief approves the administrative settlement he will place his signature on the memo of Recommendation for Administrative Settlement and return it to the Buying Section. When the owner has accepted the offer and the conveyance instruments have been signed and completed, the original memo will become part of the parcel file.

The buyer will **verbally** offer the settlement amount to the owner. A written offer is made only on the basis of an appraisal and is never prepared when making an administrative settlement. The amount of the increase will be applied to the appropriate category on the deed breakout, either land/improvements or damages, depending upon what the owner's claim for increase was. In instances where the administrative settlement is refused, the owner shall be notified that the administrative offer is withdrawn and the parcel will be condemned on the original offer approved by the State Review Appraiser.

9(2)

### **Condemnation Report**

**BE TIMELY.** Once you have determined that the differences with the owners value are too great to be addressed, you will begin the condemnation process. The condemnation process can be quite time consuming and should begin at the earliest feasible date. This is not to say that you should rush the parcel to condemnation. Lengthy negotiations which are not addressing legitimate problems and result in a condemnation, are certain to delay a contract letting. Do not make plan changes, except for legitimate corrections, unless the owner specifically agrees to accept. The owner's desire for these plan changes will give you leverage. If the owner's appraisal is long overdue, explain that you must proceed with the acquisition process in order to maintain the construction schedule; however, he may submit the appraisal whenever it becomes ready. Ask for a Right of Entry in exchange for delaying the condemnation. **Once a condemnation is certain, the parties of interest will be notified, the report prepared and the parcel submitted within one week.**

**BE REASONABLE.** If there are unavoidable delays, such as death, illness or divorce in a family, a pending legal action or sale, review the issue with the owner to allow as much time as possible to resolve their problems without jeopardizing our schedule. Conversely, you will also need to make the owner aware that his requests may not be reasonable. If an owner of a farm field wants a commercial drive, you need to make him aware of not only why we won't build it but that a court will not be addressing the design except to the extent of its impact on the value of the property. **Thus, if he thinks that going to court will allow him to redesign the project to his satisfaction, he is incorrect.**

**BE COURTEOUS.** You should explain that the difference of opinions is too great to be resolved. While you respect his opinion, you cannot justify the additional cost to the taxpayer. You understand that he must protect his interests and that the court proceedings may be his best chance to get the amount he feels is fair. **Remember, you may be back to secure this parcel if a settlement is reached at a later date.**

You will contact all parties of interest to inform them of the proposed suit. Parties to be contacted will include all ownership interests, lessees, easement holders which will require a release, farm tenants, renters, mortgagees, and attorneys.

The condemnation report (*see enclosure #2*) is prepared by the buyer, as the person most knowledgeable of the issues. Complete questions #1- #5, names and addresses, citing the owners exactly as they hold title and were cited in the offer letter. Do not use a P.O. Box as a legal address. **If the owners address is a Rural Route number and box, provide directions to the house. The notice of suit will be personally delivered by the county sheriff and he must be able to locate the address.** Cite the name of the officer of the mortgagee whom you notified.

Answers to questions #6- #27 should be detailed, accurate and insightful. Your answers will reveal your knowledge of the appraisal, the design, the owner's position and the amount of effort you have invested. Having viewed the site and worked in the area, you are aware of information that the deputy attorney general will not have. You should include your knowledge of the uses and conditions of the surrounding properties (both positive and negative), planned developments in the area, effects of the project on the residue (both positive and negative), and any comments the owner has made which support or contradict his position. **It is not acceptable to simply state that the owner did not say what he wanted. It is your responsibility to ask.**

### 9 (3)

#### **Condemnation**

After buying sends either 1) a Ten Day Letter; (*see enclosure #3*) 2) a Modified Ten Day Letter; or 3) a Condemnation Notice Letter; the parcel is forwarded to the Abstracting Unit for update. If Abstracting finds nothing new, the parcel is forwarded to engineering.

Engineering re-checks the description, inserts a definite expiration date on temporary acquisitions, and prepares the service order certifying, to the Attorney General, the need to acquire the desired interest in this particular parcel of land through the powers of eminent domain.

Engineering then forwards the parcel to the division chief for signature on the service order.

The Real Estate Section Manager then forwards the parcel to the property Management Unit who notes:

1. The condemnation status of the parcel;
2. All (if any) structures in the right-of-way to be acquired; and
3. All (if any) cost to cure items in the right-of-way to be acquired.

The Property Management Unit then forwards the parcel to buying who gives it one final check before sending it to the manager of the Real Estate Section of the Attorney General's Office.

The deputy attorney general assigned to the case must first determine that all parties of interest in the property to be appropriated have been identified and given a good faith offer.

The deputy files a complaint to appropriate the interest needed in the county in which the property is located. Said complaint includes all parties of interest plus the county auditor and county treasurer as defendants.

The county serves all defendants with notice of the complaint having been filed.

Having been served, all defendants have the opportunity to appear and object to the appropriation; however, appearance is not mandatory unless the defendant is a corporation.

No objections having been filed, or filed objections having been satisfied, the deputy may then petition the court to enter an order of appropriation. The order of appropriation certifies that this acquisition is in the public interest and may proceed under the eminent domain statutes.

The court now appoints three disinterested freeholders from the county where the property is located, to collectively determine the amount due the defendants for the interest appropriated. The court-appointed appraisers report one sum which the court enters as the court award. Both the plaintiff and defendant may file an exception to the court award.

If the state desires to take possession of the interest sought, it may deposit the court award with the clerk of the court, at which time the state may take immediate possession of interest sought.

If neither party files exception to the court award, that amount will stand as final judgement.

If either party files exception to the court award then further adjudication, i.e., settlement, mediation, jury trial, etc., will be necessary to arrive at a final judgement.

enclosure 9-1

INDIANA DEPARTMENT OF TRANSPORTATION  
INDIANAPOLIS, INDIANA 46204-2249  
INTER-DEPARTMENT COMMUNICATION

## MEMORANDUM

TO: Jay D. Marks, Chief  
Division of Land Acquisition

FROM: Kevan L. McClure, Manager  
Buying Section

DATE: July 6, 19 95

RE: Project: ST-2345(6)  
Code: 2951  
Parcel: 6  
County: Noble  
Road: SR 9  
Owner(s): Jackson, Ronald et ux

SUBJECT: *Recommendation for Administrative Settlement*

The State's fair market value determination of \$ 9,400.00 for .601 acres of permanent right-of-way, ~~-----of temporary right-of-way~~, land improvements, ~~cost to cure and severance damages~~ was offered to the owner(s). (He)(She)(They) rejected this offer, stating that (he)(she)(they) should have an additional \$ 700.00.

The owners feel that the loss of a decorative screen of pine trees will create a damage to the residual value in excess of the contributing value of the trees included in the offer.

We believe it is in the best interest of the State to settle this parcel for \$ 10,100.00. This is an increase of \$ 700.00 over the appraised amount, and we believe a great deal time and money can be saved by settling this parcel as opposed to acquiring it through condemnation.

In addition, it would cost the State approximately \$3,500.00 to acquire this property through condemnation proceedings. There is also the possibility that a \$2,500.00 litigation fee could be paid to the owner's attorney should they receive a favorable jury award.

Therefore, we intend to offer \$ 10,100.00 to the owner(s). Should (he)(she)(they) not accept, then the additional \$ 700.00 will be withdrawn and the \$ 9,400.00 figure will remain the approved amount.

**THIS RECOMMENDATION APPROVED:**

  
\_\_\_\_\_  
Jay D. Marks, Chief  
Division of Land Acquisition

xc: Records  
Federal Aid  
KLM/clm

## CONDEMNATION REPORT

Past experience has indicated that the negotiator is in an excellent position to gather information which frequently proves very valuable and helpful during a trial. Completing the following questions will materially aid the attorney representing the State. In answering them, please be as accurate and complete as you can, avoiding yes and no answers wherever possible. Where more than one negotiator has participated, each should fill out separate forms. Answer legibly in the space provided. If more space is needed, please complete your answer on an attached sheet and make reference to the paragraph and question number.

DATE August 24, 1995Project Number F-000-0(0) Parcel 1 Code 1234County Middle Road US 11. Owner's Name Sunshine Enterprises, Inc.a. Complete Address P.O. Box 6675City Moosejaw County Center State FL Zip 00000b. Directions if Rural Route or Box Number Eighth house West of County Road  
100 West on North side of County Road 300 Northc. Other Address 1650 West County Road 300 Northd. If Corporation, Name of President Oliver Shagnasty

Registered Agent (to be completed by DAG)

Name \_\_\_\_\_

Address \_\_\_\_\_

2. Lessee Animal Grooming, Inc. Written lease, unrecorded (copy enclosed)  
 Address 44 Center Street  
 City Downtown County Middle State IN Zip 00000  
 Interest of Lessee (check one): Farm ☐ Residential ☐ Commercial ☒ X
3. Contract Purchaser AOK Development, Inc.  
 Address 44 Center Street Written contract, unrecorded (copy enclosed)  
 City Downtown County Middle State IN Zip 00000
4. Mortgagee and Officer We Nick You Mortgage Co. 123-456-7890  
 Address 12 Main Street (Ivan Toughpen, Loan Officer)  
 City Uptown County Middle State IN Zip 00000  
 Registered Agent (to be completed by DAG)  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_
5. Owner's Attorney Cecil Sharkstooth  
 Address 1 Knob Hill  
 City Great City County Great County State IN Zip 00000
6. If only one personal contact was made, explain why no more were advisable before condemning this parcel. Firm offer was mailed via Certified U.S. Mail. Follow-up calls failed to produce an acceptance verbally. Personal contact convinces this buyer that offer will not be accepted.
7. What complaints, if any, have the property owner(s) made with reference to the highway project on their property? Describe in detail. The placing of concrete median barrier, which prohibits a left turn movement in or out of the subject property, will seriously damage the marketability of the property for commercial or industrial purposes.

8. What adjustments or actions have been taken, if any, and by whom with respect to any of the complaints of the property owner(s)? Describe in detail. Discussed the possibility of median crossover at owners access with Design engineers. Safety factors prohibit crossover as an option.

9. A. Date last offer was made June 8, 1995  
Amount of last offer \$ 10,000.00

B. If amount of last offer is different than amount of first offer state amount of first offer and explain why. First offer was \$8,800.00.

Offer adjusted \$1,200.00 to purchase a sign owned by the property owner.

10. How much does property owner demand? \$15,000.00

11. What are the reasons for claiming a higher amount than that offered by the State? The restriction of access to right turn in and right turn out will limit the use of this proeprty, hence reducing its value

12. How will the uses of this property be affected by the highway project? Describe in detail. High volume commercial use would be undesirable due to the difficulty of access. It is 2500 West and 1700' east to the nearest crossover

13. Has the landowner received any recent offers for his property? If so, describe fully. Owner states he has parties interested in this property for commercial use, however until access issue is settled, none will make serious offers.

14. Who are the appraisers for the property owner(s), if any? The listing realtor. Value finding, unsupported.

15. If you have any information about the owner's appraiser's qualifications, experience, etc., please describe.

Salesperson only, not a broker. Not a licensed appraiser.

16. Describe any characteristics of the property owner(s) which would be helpful to the attorney handling this case.

Highly emotional. Very difficult to discuss issues with owner in a calm manner. Is prone to threatening civil suit, contacting political figures, highway officials etc.

17. Are there any unique features about the property owner(s) farming or business operations? Are they generally good or poor?

Appears to be a successful, growing concern. Conversation indicates business started small and has continually grown.

18. Has there existed any united feeling in the community against the highway project?

This is a small interwoven community that desires to remain as such. The fear is that our improvement will attract an element of growth that would be undesirable.

19. A. Have you discovered any items of damage that have been omitted, or improperly included, or that are too high or too low? Yes X No \_\_\_\_.  
(If "Yes," explain.)

As explained in 9B, an unrelatable sign was omitted from the appraisal.

- B. Have you sent this parcel back to the Review Appraiser, or have you discussed it with the Review Appraiser, concerning any problems (including those in "A" above)? Yes X No \_\_\_\_.

Parcel was returned to Appraising for Review.

- C. If "B" above is "Yes", what was the nature of the problem and what was the Review Appraiser's determination concerning it?

The appraised value was adjusted to include purchasing the sign.

20. In your opinion, are there any strong points the State should emphasize in the presentation of its case? (Answer must be well-considered and thorough.)

The present use of the property is a specialized service which is sought by the consumer. Circuity of travel would not impede the seeking-out of this service. Median barrier would not damage present use of property.

21. Are there any weak points in the State's position? If so, specify.

"Big Brother" is coming into a quiet, contented community and bringing what it feels is an improvement. Local concern is whether the cost of this improvement is equitable.

22. Do you have any other information you feel would be helpful in the trial of this case?

Time consuming litigation is undesirable to this property owner. Settlement is a very good possibility.

23. Who is in possession of the premises?

The owner.



24. Were the actual premises to be condemned viewed by you and were those in possession contacted?

Yes.

25. Have there been any changes in the property or its uses since the completion of the appraisal?

Yes, the owner has increased his parking area, installed parking curbs, painted parking stripes, and installed lighting.

26. Have you verified in your contacts with the fee owner, or his representative, that there are no other leases, liens, or encumbrances of any kind on the property other than those listed in the report?

Yes, there is an unrecorded easement for a neighbor to use a portion of the back of the property as access to adjoining land, however this will not influence the acquisition.

27. Explain any statements or agreements made to or with the property owner(s) regarding right-of-way clear dates, moving dates, removal of encroachments, retention of property, etc.

Other than those addressed in the firm offer letter, I gave the owner a salvage value of \$120.00 on the sign. He indicated a desire to salvage what he could of the sign. He understands that the salvage value would be deducted from the purchase price.

I CERTIFY THAT THE ABOVE IS A COMPLETE STATEMENT OF THE NEGOTIATIONS CARRIED ON IN THIS CASE AND THAT IT WILL BE MY TESTIMONY IF CALLED UPON IN THE COURT PROCEEDINGS.

  
Land Agent's Signature



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

EVAN BAYH, Governor  
STAN C. SMITH, Commissioner

Writer's Direct Line:  
317/232-5048

Date: August 25, 1995

Mr. Ralph Emerson  
2432 USR 50  
Brownstown, IN 47220

RE: Project: ST-9936(B)  
Code: 2932  
Parcel: 102  
Road: USR 50  
County: Jackson

Dear Mr. Emerson:

In reviewing your file, I note there is a difference of opinion as to the value of your property which we propose to acquire.

Due to the urgency of the highway construction program, an orderly and systematic acquisition of properties must be vigorously pursued. I trust you will understand this need. We have attempted to arrive at a fair market value of your property by the use of highly competent, professional appraisers. We have made full use of all information supplied by our Buying Representative. From all the facts we have gathered we have, in our opinion, arrived at a just and fair market value of the property in the amount of \$ 10,000.00.

I am again repeating the offer as stated. This offer will remain open ten days from the date of receipt of this letter, at which time it will be considered terminated, and it shall be necessary for us to forward your file to the office of the Attorney General of Indiana in order that she may institute proceedings in eminent domain.

I wish to thank you for the courtesy and consideration you have extended to our various representatives in the past. If you should decide to reconsider your position and accept the offer, please contact me at the above address or telephone 317/232-5048, and I shall be glad to have our representative contact you again.

We regret any inconvenience this project may cause you personally but feel quite sure, after evaluating all the facts, you may wish to join the Indiana Department of Transportation in rendering to the people of Indiana a modern and safe highway system.

Sincerely,

Norman K. Malone  
Special Property Acquisitor  
Buying Section

NKM/clm

xc: Parcel  
Records

Cecil Sharkstooth (Owner's Atty.)  
Ivan Toughpen, (Lessee, Mortgagee, etc. if any)

## CHAPTER 10

### RELOCATION

State and federal laws provide for relocation assistance payments to be made to eligible persons who are displaced by eminent domain acquisitions for public projects. The Relocation Unit of the Acquisition Services Section administers the relocation payment program for INDOT. Their activities will coincide with yours during the acquisition.

Relocation payments are made to eligible parties for moving personal property which is in the right of way, to assist an owner or tenant in purchasing or renting a replacement dwelling, to reimburse the cost of an increase in the interest rate of a new mortgage and reimbursement of certain costs involved in business moves. The relocation agent will determine the displaced party's eligibility for these payments, document the appropriate expenses and process the payment.

**While a minimal understanding of the nature of the program is necessary, the buyer should never try to explain the relocation program or determine the person's eligibility. The buyer's responsibility is only to inform the owner that additional funds MAY be available through the relocation program.** The owner will be most anxious to know complete information at the time you make the offer and will press you for details regarding the program and his eligibility. You must refrain from making any statements and request his patience in waiting for the relocation agent to establish his benefits. A poorly worded or misunderstood explanation might cause an owner to inadvertently relinquish his eligibility. This scenario has occurred and the owner invariably blames the buyer for misleading him.

Upon receipt of a parcel, the buyer will determine whether persons or a business will be displaced. The buyer will include in his offer package either RAAP Letter #6, for residential properties, or RAAP Letter #24 for business properties. ( See Chapter 5(4), enclosures 5-1 & 2).

Ask the owner to sign the letter only to indicate his receipt. If he refuses to sign, you will indicate this on the signature blank. Provide the owner with the original and place a copy, signed or unsigned, in the parcel.

If the acquisition will displace a business or persons from a residence, if personal property must be removed from the proposed right of way, or if the acquisition changes the highest and best use of the property, the buyer will complete a Daily Notice to Relocation (see chapter 4(11) and enclosure 4-12) immediately upon making the offer and submit it to the Real Estate Clerk for distribution. This form will initiate action to be taken by the Relocation Unit.

It is the policy of the Buying Section to allow an owner/occupant to receive his relocation entitlement letter, which specifies the amount of replacement housing payment which he may receive, **before** asking for decision on accepting the offer. This provides the owner with the knowledge of the total amount of money available to him for the purchase of another home, prior to entering into a contract to sell his existing home. *This policy applies only to displaced residential owner/occupants and not to businesses or owners who merely have to move personal property out of the right of way.*

## CHAPTER 11

### ASSEMBLY

Upon obtaining all executed instruments necessary to transfer the property and provide clear title, the parcel will be assembled and reviewed for approval to process payment. If the offer is rejected the condemnation report will be prepared and the parcel assembled in a different manner. The buyer will assemble the parcel, either secured or condemned, as specified in the Parcel Assembly Order List (*enclosure # 1*). The buyer will prepare a Status Report (*enclosure # 2*) and place it in the parcel file. The status report serves to notify the Property Management Unit of retentions, excess land and land improvements requiring demolition. It also will provide any future reader of the file with a synopsis of the taking.

You will review the assembled parcel to verify that you have obtained signatures from all the ownership interests, that clear title is being conveyed, that all of the owners' concerns were addressed, that all issues requiring coordination with other divisions have been resolved (special contract provisions or plan changes), and that all arrangements for payment have been finalized. Submit the parcel to your project supervisor for review. The supervisor will review the parcel and complete a parcel evaluation sheet (*see enclosure #3*) reflecting the quality of your product.

#### 11 (1)

##### **Payment procedures**

If the supervisor approves the parcel it will be submitted to INDOT's Legal Section for approval of legal format, clear title and payment. If the parcel is a purchase in excess of \$25,000 the Abstracting Unit will update the title work. Internal review will assign invoice numbers to the voucher and identify what accounts the money is to be paid from. The Real Estate Section Manager signs the voucher approving payment and forwards the parcel to the Property Management Unit. Property management records any building retentions or purchases of excess land and submits the voucher and deed to the Accounting and Control Division which monitors the project budget. Accounting and Control then forwards the voucher and deed to the Auditors Office for a check to be issued. Once the check is issued it is returned to Property Management which arranges delivery per your instructions on the voucher.

#### 11 (2)

##### **Special processing of checks**

As is evident, the payment process is quite lengthy and **you should not inform a property owner that payment will be made in less than the standard 90-day period.** If a hardship exists or circumstances determine that expeditious payment will benefit INDOT, you should review the merits of special processing with the Acquisition Administrator. Upon approval you will prepare a special processing memo (*enclosure # 4*) citing the circumstances and submit it to the section clerk for typing. Special processing will reduce the payment period to 30-45 days.

## 11 (3)

### **Waivers and Memos**

Waivers of release of interest and memos to the parcel will be prepared by the buyer, with **prior** approval of the Manager. Waivers and memos will be placed in the front of the parcel to explain special circumstances to the reviewer and all parties involved in processing the parcel. A generic format guide for administrative settlement memos (*see Chapter 9, enclosure # 1*) will be tailored by the buyer to address the specific circumstances of the parcel. The same procedures will apply to memos of environmental recommendations (*see Chapter 7, enclosures #2 & #3*), waivers of partial mortgage release (*see Chapter 2, enclosure #21*) and waivers of real estate tax, judgement, UCC filing, etc. (*see Chapter 2, enclosure #23*).

## ASSEMBLAGE OF DOCUMENTS FOR SECURED/CONDEMNED TURN-IN PARCELS

Prior to turning in secured or condemned parcels, you are requested to assemble the contents of the parcel, from top to bottom, as directed below:

### A. SECURED PARCELS

1. Parcel Evaluation Report
2. Special Payment Letter (if any)
3. Administrative Settlement Letter (if any)
4. Waiver of Mortgage (if any)
5. Original and one copy of the Warranty Deed (or other conveying instrument)
6. Environmental Disclosure Document (if any; original and two copies)
7. Affidavits, Resolutions, etc. (if any)
8. Mortgage Release (if any)
9. Acceptance of Offer
10. Claim Vouchers
11. IRS form W-9 (two copies)
12. Status Report
13. Appraisal Report
14. Retention Letter (re: Salvage value from Property Management Section, if any)
15. Performance Bond
16. Formal Retention Agreement (re: major retentions, e.g., building, structures, etc; if any)
17. Retention of Ownership (fixtures and parts, if any)
18. Items Treated as Personal Property (if any)
19. Daily Relocation Notice (if any)
20. Uniform Land or Easement Acquisition Offer Letter
21. Receipt of Conveyance Instrument
22. Tax Receipts - on total or substantial takings
23. Tax Memo Letter
24. Buyer's Reports (attach most recent on top)
25. Miscellaneous (letters, buck sheets, rec and route slips, notes, land plats, etc.)
26. Condemnation Report (if any)
27. Relocation Papers (if any)
28. Right of Entry (if any)
29. Name Change Report
30. Title and Encumbrance Report and/or Title Guarantee

### B. CONDEMNED PARCELS

1. Parcel Evaluation Report
2. Condemnation Report
3. Buyer's Reports (attach most recent on top)
4. Any letters or important papers
5. Title and Encumbrance Report and/or title Guarantee
6. Daily Relocation Notice (if any)
7. Uniform Land or Easement Acquisition Offer letter
8. Relocation Papers (if any)
9. Miscellaneous
10. Right of Entry (if any)
11. Blank Warranty Deed (or other Conveying instrument)
12. Appraisal Report

**ENCLOSURE 11-2**

THIS PARCEL WAS PURCHASED AS FOLLOWS:

THIS IS A:      ☐ -TOTAL TAKE,                      ☐ -PARTIAL TAKE,                      ☐ -TEMPORARY R/W ONLY  
☐ -ACCESS RIGHTS ONLY,                      ☐ -TOTAL TAKE WITH EXCESS LAND  
☒ -PARTIAL TAKE WITH EXCESS LAND&Perpetual Eastments ☐ -OTHER\_\_\_\_\_

DESCRIPTION OF BUILDINGS, STRUCTURES, SIGNS, AND LAND IMPROVEMENTS IN RIGHT-OF-WAY:

ADDRESS OR LOCATION OF ABOVE LISTED ITEMS IN THE RIGHT-OF-WAY:

APPROVED \_\_\_\_\_ Signed \_\_\_\_\_  
(Negotiator)

**INDIANA DEPARTMENT OF TRANSPORTATION  
DIVISION OF LAND ACQUISITION  
BUYER EVALUATION**

DATE: 7-14-95

PROJECT: F-2879(4)

CODE: 2876 PARCEL: 2

BUYER: Mason

REVIEWER: Penturf

	Y	N
1. Was parcel assembled correctly?	<u>x</u>	<u>    </u>
2. Were conveyance instruments complete and accurate, and do they meet the legal requirements to convey title?	<u>    </u>	<u>x</u>
3. Were all necessary documents in parcel? (admin. set., waiver, etc.)	<u>x</u>	<u>    </u>
4. Were all interests and/or liens either released, waived, or explained by affidavit?	<u>x</u>	<u>    </u>
5. Was parcel secured and questions answered in a timely manner?	<u>x</u>	<u>    </u>
6. Was parcel secured within target date?	<u>    </u>	<u>x</u>

Overall Rating: 3

COMMENTS: Owner cited differently in notary than in granting clause.

Notary not dated. Claim voucher has wrong code number. Target date

expired 1 month ago.

5 - Excellent  
3 - Average

1 - Unsatisfactory

4 - Good  
2 - Marginal



## COMPLETION INSTRUCTIONS FOR BUYER EVALUATION

1. Answer yes or no to each of the 6 questions. Question number 6 applies only to turnkey parcels.
2. For each question answered no, deduct the applicable factor (see below) and the total remaining is the overall score.
3. Provide comments as desired; however, comments are required for any major deduction (i.e., 1, 2, or 3 points)

### Deduction Factor:

- |    |      |
|----|------|
| 1. | 0.25 |
| 2. | 1.5  |
| 3. | 1.0  |
| 4. | 1.5  |
| 5. | 0.25 |
| 6. | 0.50 |



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N755

Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

EVAN BAYH, Governor

TAN C. SMITH, Commissioner

Writer's Direct Line:

2-5000

## MEMORANDUM

TO: The Auditor of the State of Indiana

ATTN: Michael J. Horstman, CPA  
Chief Deputy AuditorTHRU: Dennis Faulkenberg  
Chief Financial OfficerFROM: Jay D. Marks, Chief  
Division of Land Acquisition

RE: Project:	<u>MAF-2525(4)</u>
Parcel:	<u>8</u>
Code:	<u>2525</u>
County:	<u>Morgan</u>
Road:	<u>SR 67</u>
Owner:	<u>Smith, William R.</u>

SUBJECT: Special Payment

Due to the fact that this project is scheduled for letting within the next three (3) months

we request that this parcel be processed as a "special" to expedite payment.

Thank you in advance for your assistance and cooperation.

JDM:KLM/clm

xc: records

## CHAPTER 12

### Miscellaneous

There are laws, regulations and policies too numerous to mention which govern INDOT's actions. Federal Regulations, Title 23 CFR Part 710 (Federal Highway Administration Right-of-Way and Real Estate); and Title 49 CFR Part 24 (Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally Assisted Programs) govern INDOT's acquisitions. This chapter will cite some of the more common authorities and procedures which may be questioned or challenged by property owners. The Buying Section's policies have been established in the previous chapters. Other questions regarding design standards and construction practices will require you to seek advice from the appropriate source; i.e. the Design Division, the design consultant, the District construction engineer, the project engineer or the INDOT Standard Specification manual.

#### 12 (1)

##### **Authorities granted INDOT under the Indiana Code**

IC 8-23-7-26; **the authority to enter upon private property** for the purposes of surveying, investigating, boring, archeological digging, etc. with a 5 day advance written notice.

IC 8-23-7-28; provides for **compensation for damages caused by entry** onto the property under IC 8-23-7-26. If an owner complains of damage caused by survey crews, which will not be compensated in the offer to purchase, you should refer him to the district development engineer. If a damage claim is not satisfactorily resolved the owner has the right to sue for damages in the county circuit court.

IC 8-23-7-13,14,15 & 16; **sale of excess property**. These sections establish the procedures for disposing of excess land. **1.** The land must be declared excess, which will not occur until the project is completed. **2.** INDOT will offer the land to the owner of the property from which the land was purchased at the appraised fair market value. If the acquisition was a total taking and thus no residual owner, the land may be sold to the public at fair market value of less than \$4,000. **3.** If the land is valued at more than \$4,000 it must be offered to the public through advertisement and sold to the highest bidder.

**Land improvements** which are not retained by the owner may be auctioned by INDOT. If they do not merit an auction, or time will not allow for an auction, the improvement will become the property of the demolition contractor who may sell, salvage or demolish it.

IC 8-23-5-1; **authority to remove encroachments**. Encroachments may be removed by INDOT after giving a 30 day written notice to the owner. The cost of removal will be billed to the owner. An exception to this is an aerial overhang which existed prior to August 12, 1963. This encroachment may be allowed to remain if INDOT determines that it poses no safety hazard.

IC 8-23-6-6; authorizes INDOT to require and **issue permits** for improvements to be constructed within the public right of way: i.e. driveway approaches, sewer pipe connections, etc. Failure to obtain a permit prior to construction is a Class C infraction. Please note that the development of a property, which includes the construction of a drive access, is the owners responsibility. INDOT will reconnect an existing drive, or construct a new drive to replace an eliminated drive or to provide access to a residue which is landlocked due to the taking. If an owner asks for a new drive you should explain that he must submit a drive permit application to

the district permit engineer. Be aware that a drive may cost between \$1,500 to \$15,000 depending upon the size and design.

IC 8-23-7-5 & 6; an owner may not subdivide his property or erect any improvements after receiving a **notice of intent to acquire** (an offer letter) without first notifying INDOT of the intended use. INDOT has 90 days after receiving notice of the intended improvements in which to acquire the property or commence condemnation proceedings.

IC 8-23-7-10; INDOT will **publish a list of the owners** names, areas acquired and the price paid. INDOT chooses to publish the entire list of owners on a project at the completion of the acquisition phase.

### **INDOT Standard Specifications**

107.08(e) & 611.05; the contractor will reconstruct **private roads and mailboxes** as soon as possible to minimize inconvenience to property owners. During construction the contractor will remove the mailbox and its stand, offering the owner the opportunity to store it. A temporary mailbox assembly secured on top of a 55 gallon drum will be installed outside of the construction area. The contractor is responsible for installing a permanent mailbox assembly, approved by the U.S. Postal Service and meeting FHWA crash test standards, of comparable size to the mailbox which was removed.

107.13; the contractor is responsible for damage or injury to property resulting from defective work or materials ...

107.14; the contractor is **not allowed to enter upon private property** without the permission of the owner. The contractor shall erect a **temporary fence** in temporary easement areas which contain livestock. The offer to purchase will compensate the owner for erecting permanent fence once the work is completed. The owner should coordinate the timing of the fence construction with the project engineer in order to assure that the area is continuously fenced.

107.16; any **damages caused by the contractor** outside of the right of way is a basis for a damage claim by the owner. The owner should contact the project engineer to file the claim.

104.04; "**Temporary approaches** to businesses, parking lots, residences, garages, farms, and crossings and intersections with trails, roads, and streets shall be provided in a safe condition." You should inform the owner that while the temporary access may not be desirable (i.e. muddy or rutted), INDOT will provide him with reasonable access at all times, except during periods of actual drive construction and associated improvements such as drainage pipes. If he expresses extreme concern you should tell him to discuss his concerns with the project engineer in order to coordinate the drive construction with any critical time frame the owner has.

### **General standards & policies**

INDOT will **seed** the right of way in areas considered to be rural or agricultural. **Sod** will be laid in areas considered to be residential or commercial.

**Temporary easements will be restored** to their original condition. If improvements in the temporary easement must be moved or replaced they will be compensated under the land acquisition offer.

While it is common knowledge that the sale of property is subject to capital gains **income tax**, you should refrain from giving any advice or explanation of how the sale will effect the owners' tax status. Explain that tax status is a complicated field and the owner should review the issue with the IRS or their accountant.

Indiana code ( IC 25-39-4-6) requires that all **abandoned wells** be capped. If you purchase a property with a water well which is not shown on the plans you will locate the well and notify Design to reflect it on the plans. You will note all wells on the Status Report as a land improvement purchased in order to notify Property Management of the need for capping.

When purchasing any building or mobile home the buyer should explain to the owner that the **transaction is not final until payment is received**. Therefore, he should **maintain his insurance** until both payment is received AND he has vacated the building. Any fire or accident which would occur prior to payment would cause the property to be reappraised and the owner would need to seek reimbursement from his insurance company. Losses or liabilities which occur after payment is made but while the owner still occupies the building must be covered by his insurance.

The owner should also be advised to **continue to make payments on his mortgage and real estate taxes** during the interim period while a closing is pending.

## INDEX

The index arranges the subject references by alphabetical order. A subject reference will refer to a chapter and subsection, such as 2(2) means Chapter 2, subsection 2. A document is referenced by the chapter and enclosure number, such as 2-2 means Chapter 2, enclosure 2.

acceptance of offer; 8(3), 8-4  
access rights; 8(15)  
administrative settlement; 9(1)  
administrative settlement memo; 9(1), 9-1  
Affidavit of adverse possession; 2(19), 2-15, 5(2)  
Affidavit of association resolution; 2(20), 2-17  
Affidavit of church trustees resolution; 2(20), 2-16  
Affidavit company president's authority; 2(17), 2-13  
Affidavit corporate authority; 2(15), 2-10, 2-10A  
Affidavit of death; 2(1), 2(2), 2-4, 5(2)  
Affidavit executive authority; 2(14), 2-9  
Affidavit, He/She the same; 8(8), 8-24, 5(2)  
Affidavit of heirship; 2(1), 2-2, 5(2)  
Affidavit, I am the same as; 8(8), 8-25, 5(2)  
Affidavit of judgement debtors; 8(8), 8-26, 5(2)  
Affidavit LLC managers authority; 2(16), 2-12  
Affidavit of lessee's non-compliance, oil/gas; 2(8), 2-6, 5(2)  
Affidavit of non-compliance, fee mineral interest; 2(8), 2-7, 5(2)  
Affidavit partnership authority; 2(16), 2-11  
Affidavit President's authority; 2(17), 2-13  
Affidavit sole proprietorship; 2(17), 2-14  
Affidavit of surviving spouse; 2(1), 2-3, 5(2)  
Affidavit Trustees authority; 2(6), 2-5  
Affidavit Unable to locate; 4(9), 4-10  
Affidavit Unable to present offer; 4(9), 4-9  
Agreement of conveyance; 8(15), 8-2  
associations; 2(20)  
Attorney in Fact; 2(7), 8(2), 8-23 deed example  
authorization to enter private property; 8(10), 8-15  
bankruptcy; 2(12)  
billboards; 3(5), 5(5)  
buyers report; 4(3), 4-3  
certificate of gross retail tax; 8(17), 8-22  
claim voucher; 8(4), 8-5, 8-6, 8-7, 8-8, 8-9,  
classified use properties; 2(9)  
classified use memo, release; 2(9), 2-8  
companies; 2(17)  
company President's Authority Affidavit; 2(17), 2-13  
condemnation procedures; 9(3)  
condemnation report; 9(2), 9-2  
condemnation ten day letter; 9(3), 9-3  
condominiums; 2(20)  
contaminated properties; Chapter 7  
contract buyers; 2(3), 8-23 deed example  
conveyance agreement for access rights; 8(15), 8-21  
Corporate authority affidavit; 2(15), 2-10A  
Corporate authority affidavit, one man corp.; 2(15), 2-10

corporations; 2(15), 8-23 deed example  
crop damages; 2(23)  
Daily relocation notice; 4(11), 4-12, chapter 10  
deeds; 8(2), 8-1, 8-23 examples  
donations; 8(11), 8-16, 8-17  
easements; 2(21)  
encroachments; 12(1)  
environmental disclosure document; chapter 7, 7-1, 5(2)  
environmental recommendation memo; 7-2, 7-3  
estates; 2(4), 8-23 deed example  
excess land; chapter 3, 12(1) sale  
Executive authority affidavit; 2-9  
executor's authority; 2(4)  
farm tenants; 2(23)  
fence policy; 12(1)  
formal retention letter; 8(12)  
government acquisitions; 2(14), 8-23 deed example  
guardian; 2(5)  
joint tenants with rights of survivorship; 2(1)  
judgements; 2(28)  
landlocked residues; chapter 3  
laws affecting INDOT; Introduction, 12(1)  
leases; 2(22)  
lessees on offer letter; 4(1)  
legal authority to condemn; introduction  
life estate; 2(2)  
limited liability companies; 2(16)  
LLC Managers authority affidavit; 2(16), 2-12  
limited partnerships; 2(16), 8-23 deed example  
local government property; 2(14), 8-23 deed example  
market estimates; 3(4), 8(15)  
mechanics lien; 2(27)  
memo recommending secure environmental parcel; 7-2  
memo recommending condemn environmental parcel; 7-3  
mineral interests; 2(8)  
mobile homes; 8(17), 8-22  
mobile homes, personal property tax; 2(26)  
mortgages; 2(24)  
mortgage release; 2(24), 2-18  
mortgagee's letter (out of state); 2(24), 2-19  
mortgage waivers; 2(24), 2-21  
national forest properties; 2(10)  
national park properties; 2(13)  
notice of land acquisition name change; 2-1, 4(1)  
notice of items to be treated as personal property; 8(14), 8-20  
notice of offer by publication; 4(9), 4-8  
offer letter; 4(2), 4-2  
offer by mail; 4(10)  
oil/gas leases; 2(8), 2(22)  
owners private appraisal letter; 4-6, 6(3)  
parcel assembly order list; 11-1  
parcel evaluation; 11-3  
parcel fact sheet; 4(1), 4-1

parties to an offer; 2 (ownerships)  
partnerships; 2(16), 8-23 deed example  
Partnership authority affidavit; 2(16), 2-11  
personal property tax, mobile homes; 2(26)  
policies; 12(1)  
Power of Attorney; 2(7), 8(2), 8-23 deed example  
prescriptive easements; 2(21)  
priorities; 4(1)  
publication of offer; 4(9), 4-8, 4-9, 4-10  
quitclaim deed; 8(2), 8-2, 8-23  
RAAP6 letter; 5(4), 5-1, chapter 10  
RAAP24 letter; 5(4), 5-2, chapter 10  
railroads; 2(18)  
reacquire existing right of way (RER); 2(11)  
real estate taxes; 2(25), 8(2)  
real estate tax memo; 2(24), 8(7), 8-12, 8-13  
real estate tax waiver; 2(25), 2-23  
receipt of conveyance instrument; 8(6), 8-11  
responsibilities- introduction  
retentions, major; 5(5), 8(2) deed clause, 8(12), 8-18 agreement,  
retentions, minor; 5(5), 8(13), 8-19  
right of entry; 8(9), 8-14  
right of way grant; 8(2), 8-3  
sign values; 3(5)  
Sole proprietorship affidavit; 2(17), 2-14  
special processing of checks memo; 11(2), 11-4  
standard specifications; 12(1)  
status report; chapter 11, 11-2  
tax liens, state & federal; 2(30)  
temporary easement value; chapter 3  
tenants in common; 2(1), 8-23 deed example  
tenants by the entirety; 2(1), 8-23 deed example  
trusts; 2(6), 8-23 deed example  
Trustee's authority affidavit; 2(6), 2-5  
uneconomic remnant; chapter 3  
Uniform Commercial Code filings; 2(29)  
unknown ownerships; 2(19)  
W-9; 8(5), 8-10  
waivers; 11(3), 2-21, 2-23  
warranty deed; 8(2), 8-1, 8-23 completed examples  
way of necessity; 2(21)  
wells in right of way; 12(3)